



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LE GERS PROPERTIES INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **FFL MNDCL-S MNDL-S MNRL-S**

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- Authorization to recover the filing fees from the tenant pursuant to section 72;
- A monetary order for damages or compensation and authorization to retain a security deposit pursuant to sections 38 and 67;
- A monetary order for damages to the rental unit and authorization to retain a security deposit pursuant to sections 67 and 38; and
- A monetary order for rent and/or utilities and authorization to retain a security deposit pursuant to sections 38 and 67.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 1:42 P.M. to enable the tenants to call into this hearing scheduled for 1:30 P.M. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that landlord and I were the only ones who had called into this teleconference.

The landlord attended the hearing, represented by property manager, FD and resident manager, PW. The landlord testified he served the Application for Dispute Resolution and evidence to the tenants by registered mail to 1) their former residential address and to 2) their workplace on September 28, 2019. The landlord testified the tenants moved out of the rental unit on September 15, 2019 and they do not know the residential address for the tenants. The tracking numbers for the mailings are recorded on the cover page of this decision. With the landlord's permission, I reviewed Canada Post's website and determined that the packages were both returned to sender as undelivered to the recipients.

Preliminary Issue- Service of the Application for Dispute Resolution

The application for dispute resolution must be served in accordance with section 89(1) of the *Act* (reproduced below).

89 Special rules for certain documents

1. An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:
 - a. by leaving a copy with the person;
 - b. if the person is a landlord, by leaving a copy with an agent of the landlord;
 - c. by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
 - d. if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
 - e. as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

The landlord gave undisputed testimony the application for dispute resolution was served by mailing it to an address where the tenants no longer reside and to an address where the tenants both work, methods not provided for in section 89(1). I find the tenants were not properly served with the application for dispute resolution.

Policy Guideline PG-12 [Service Provisions], part 16 provides that where one or more parties on an application for dispute resolution have not been served, the Arbitrator's decision or order will indicate this. The matter may proceed, be adjourned, dismissed with or without leave to reapply.

I dismiss the landlord's application with leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: January 27, 2020

Residential Tenancy Branch