



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1098189 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCL, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on October 24, 2019 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage, compensation or loss; and
- an order granting recovery of the filing fee.

The hearing was scheduled for 1:30pm on January 28, 2020 as a teleconference hearing. The Landlord's Agent J.T. appeared and provided affirmed testimony. No one appeared for the Tenants. The conference call line remained open and was monitored for 14 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that J.T. and I were the only persons who had called into this teleconference.

J.T. testified the Application and documentary evidence package was served to the Tenants by posting it to the Tenants' door. J.T. stated that she confirmed that the Tenants no longer reside at the forwarding address that they provided.

Preliminary Matters

Section 89 of the Act establishes the following Special rules for certain documents, which include an application for dispute resolution: An application for dispute resolution,...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 document]...*

The Residential Tenancy Branch Policy Guideline 12 (the "Policy Guidelines") states that; all parties named on an application for dispute resolution must be served notice of proceedings, including any supporting documents submitted with the application. Where more than one party is named on an application for dispute resolution, each party must be served separately. Failure to serve documents in a way recognized by the Legislation may result in the application being adjourned, dismissed with leave to reapply, or dismissed without leave to reapply.

I find that the Landlord has not served the Tenants in a manner required by Section 89(1) of the *Act*.

As the Tenants did not appear at the time of the hearing, and that J.T. stated that the Application package and documentary evidence package was posted to the Tenants' door, which is not an approved for of service pursuant to Section 89 of the *Act*, I am not satisfied that the Tenants were properly served with the Application for Dispute Resolution or Notice of Hearing. As a result, this Application is dismissed with leave to reapply. This does not extend any time limits set out in the *Act*.

J.T. stated that the Tenants no longer reside at the forwarding address that they provided. J.T. stated that she was able to make contact with the Tenants via email. Should personal service or service via registered mail not be achievable, an application for substituted service may be made at the time of filing the application for dispute resolution or at a time after filing.

In these cases, the party applying for substituted service must be able to demonstrate two things:

- that the party to be served cannot be served by any of the methods permitted under the Legislation, and

- that there is a reasonable expectation that the party being served will receive the documents by the method requested.

Conclusion

The Landlord did not serve the Tenants with the Application and documentary evidence package in accordance with Section 89 of the Act. As such, the Landlord's Application is dismissed 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 28, 2020

Residential Tenancy Branch