



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code **FFL MNRL-S**

Introduction

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

- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- a monetary order for unpaid rent in the amount of \$1,022 pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 1:40 pm in order to enable the tenants to call into this teleconference hearing scheduled for 1:30 pm. The landlord and his wife attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. 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 the landlord, his wife, and I were the only ones who had called into this teleconference.

Preliminary Issue – Service of Documents

The landlord testified that the tenants was served the notice of dispute resolution, application of dispute resolution, and supporting evidence package by posting it on the door of the rental unit on September 4, 2019.

Section 89(1) of the Act sets out how applications of dispute resolution (which are not for orders of possession) may be served:

Special rules for certain documents

89(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*].

Section 89(1) does not permit applications for dispute resolutions to be served by posting on the door of a rental unit.

As such, I cannot find that the tenants were properly served with the application for dispute resolution. Accordingly, I cannot hear the landlord's application.

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

The landlord may make a second application to recover unpaid rent from the landlord. This application must be served in accordance with section 89(1) (that is, by registered mail or in person). If the landlord is not able to serve the tenants in accordance with section 89(1), the landlord may make an application for substituted service under section 71(1) of the Act (using form RTB-13).

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 2, 2020

Residential Tenancy Branch