



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes LAT, OLC, LRE, PSF, AAT

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on January 18, 2020 (the “Application”). The Tenant sought the following:

- Authorization to change the locks to the rental unit;
- An order that the Landlord comply with the Act, regulation and/or the tenancy agreement;
- To suspend or set conditions on the Landlord's right to enter the rental unit;
- For the Landlord to provide services or facilities required by the tenancy agreement or law; and
- An order that the Landlord allow access to the unit.

The Tenant attended the hearing. Nobody attended the hearing for the Landlords.

The Application originally named three tenants; however, the Tenant advised that the other two named are children. Given this, I removed them from the Application.

I explained the hearing process to the Tenant who did not have questions when asked. The Tenant provided affirmed testimony.

The Tenant submitted evidence the morning of the hearing. The Landlords did not submit evidence. I addressed service of the hearing package and Tenant's evidence.

The Tenant testified that the hearing packages and evidence were sent to the Landlords by registered mail. The Tenant testified that the rental unit is a house and she rents the whole house. The Tenant confirmed that the Landlords do not live at the rental unit. The Tenant testified that she sent the packages to the rental unit address. The Tenant

provided Tracking Number 1 and 2. The Canada Post website shows the packages were sent March 05, 2020. The website shows the recipients are not located at the address provided and the packages were returned to the sender.

The Tenant testified that she posted the hearing package and evidence on the door of the rental unit for the Landlords on March 20, 2020. She said the Landlords did not take the packages and she removed them three days later.

The Tenant could not point to documentation submitted showing the Landlords use the rental unit address as their address for service or showing the Landlords told the Tenant she could use the rental unit address as their address.

The Tenant testified that the Landlords knew about the hearing because she told their friend about it.

I asked the Tenant why the hearing packages and evidence were served so late as the Tenant filed the Application January 18, 2020 and did not pick the hearing packages up from the RTB until March 05, 2020 according to RTB records. I also asked the Tenant why she submitted her evidence so late as the evidence was uploaded hours before the hearing. The Tenant testified that the Landlords have been harassing her and her children on purpose and that she has a medical condition that has made the process difficult.

I heard the Tenant on the Application. However, I told the Tenant during the hearing that there are issues with service and that I would decide whether I was satisfied of service in my written decision. I explained to the Tenant that, if I was not satisfied of service, I would dismiss the Application with leave to re-apply.

Section 89 of the *Residential Tenancy Act* (the “Act”) sets out the permitted forms of service for the hearing packages for this matter and states:

89 (1) 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) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents].

I am satisfied the Tenant sent the hearing packages to the rental unit by registered mail based on the undisputed testimony of the Tenant.

However, I am not satisfied the rental unit is the residence of the Landlords as the Tenant testified that she rents the whole house and the Landlords do not live at the house. I am not satisfied the rental unit address is an address at which the Landlords carry on business as it is the rental unit where the Tenant resides.

I am not satisfied the Landlords provided the rental unit address as their contact address or address for service as I find this would be unusual and there is no documentary evidence before me showing that the Landlords did.

In the circumstances, I am not satisfied the Tenant was permitted to serve the Landlords at the rental unit address.

Posting the hearing packages to the door of the rental unit was not sufficient. This is not a form of service permitted under section 89(1) of the *Act*. Further, the rental unit address is not the residence or place of business of the Landlords.

I am not satisfied the Landlords were served with the hearing packages in accordance with the *Act*. I am not satisfied the Landlords received the hearing packages as the Canada Post website shows the packages were returned and the Tenant acknowledged the Landlords did not take the packages posted to the door.

It may be that the Landlords were aware of the hearing through a friend. However, this is not sufficient. The requirement is that the hearing packages be served on the Landlords in accordance with the *Act*. The Tenant did not do so. The Landlords cannot be deemed to have received the hearing packages because they were not served in accordance with the *Act*. The evidence shows that the Landlords did not receive the hearing packages. The Landlords did not appear at the hearing.

In the circumstances, I am not satisfied of service. The Application is dismissed with leave to re-apply. The Tenant can re-apply; however, the Tenant will need to serve the Landlords in accordance with the *Act* and Rules of Procedure.

Conclusion

The Application is dismissed with leave to re-apply.

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

Dated: April 02, 2020

Residential Tenancy Branch