



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

RPP

Introduction

This hearing was convened in response to the Tenants' Application for Dispute Resolution, in which the Tenants applied for the return of personal property belonging to the Tenants.

Issue(s) to be Decided

Is there a need to issue an Order requiring the Landlord to return personal property to the Tenants?

Background and Evidence

The Tenant stated that she was unable to serve the Dispute Resolution Package to the Landlord, as she does not have a service address for the Landlord.

The Tenant stated that she believes Service Canada served those documents to the Landlord on her behalf. The Tenant was advised that it is my understanding that neither Service Canada nor Service BC serves these types of hearing documents on behalf of tenants or landlords.

The Tenant then referred to a decision rendered by a Residential Tenancy Branch adjudicator on March 06, 2020, in which the adjudicator dismissed the Tenants' application to serve the Dispute Resolution Package in a manner not described in section 89 of the *Residential Tenancy Act (Act)*. The Tenant stated that she believed this decision showed that the Dispute Resolution Package had been served to the Landlord on her behalf.

Analysis

The purpose of serving the Dispute Resolution Package to landlords is to notify them that a dispute resolution proceeding has been initiated and to give them the opportunity to respond to the claims being made by the tenant. When a tenant files an Application for Dispute Resolution in which a tenant applies for the return of personal property, the tenant has the burden of proving that the landlord was served with the Application for Dispute Resolution in compliance with section 89(1) of the *Act*.

Section 89(1) of the *Act* stipulates, in part, that a tenant must serve a tenant with an Application for Dispute Resolution 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
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

The Tenant submitted no evidence to show that the Landlord was served with the Dispute Resolution Package in accordance with sections 89(1)(a), 89(1)(b), or 89(1)(c) of the *Act*.

There is no evidence to show that the director authorized the Tenant to serve the Application for Dispute Resolution to Landlord in an alternate manner, and I therefore find that the Landlord was not served in accordance with section 89(1)(e) of the *Act*.

As there is no documentary evidence to show that the Dispute Resolution Package was served to the Landlord, I am unable to proceed with the hearing in the absence of the Landlord. This Application for Dispute Resolution is therefore dismissed, with leave to reapply.

Conclusion

This Application for Dispute Resolution is dismissed, with leave to reapply. The Tenants are at liberty to file another Application for Dispute Resolution in regard to the issue in dispute at these proceedings.

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: May 07, 2020

Residential Tenancy Branch