



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC, LRE, FFT

Introduction

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

- cancellation of the One Month Notice to End Tenancy for Cause, pursuant to section 47;
- an Order that the landlords' right to enter be suspended or restricted, pursuant to section 70;
- an Order directing the landlord to comply with the *Act*, regulation or tenancy agreement, pursuant to section 62; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Preliminary Issue- Service

The tenant testified that he did not recall if he served the landlords with his application for dispute resolution. No proof of service documents were entered into evidence. The landlords testified that they were not served with the tenant's application for dispute resolution and only found out about today's hearing when the Residential Tenancy Branch sent them an e-mail regarding service deadlines. I find that the landlords were not served with the tenant's application for dispute resolution.

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

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) 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]...*

I find that the tenant did not serve the landlords in a manner required by section 89(1) of the *Act* or by a method approved under a Director's Order. At the hearing, I advised the parties that I was dismissing the tenant's application with leave to reapply. I allowed both parties the opportunity to set out their position regarding the One Month Notice to End Tenancy for Cause; however, as I had already dismissed the tenant's claim for failure to serve and the landlord did not apply for an Order of Possession, I am not able to render a decision on the notice.

Conclusion

I dismiss the tenant's application to recover the \$100.00 filing fee without leave to reapply.

The remainder of the tenant'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: May 25, 2020

Residential Tenancy Branch