



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, FFT

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution, made on May 5, 2020 (the "Application"). The Tenants applied for an order that the Landlord comply with the regulations, tenancy agreement or the *Act*, as well as for the return of the filing fee, pursuant to the *Residential Tenancy Act* (the "*Act*").

The hearing was scheduled for 9:30 AM on June 15, 2020 as a teleconference hearing. P.P. appeared on behalf of the Tenants and provided affirmed testimony. No one appeared for the Landlord. The conference call line remained open and was monitored for 10 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 P.P. and I were the only persons who had called into this teleconference.

P.P. testified that she did not serve the Landlord with a copy of the Tenants' Application as they are unaware of the Landlord's address for service.

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]...*

Alternatively, pursuant to sections 71(2)(b) and (c) of the Residential Tenancy Act, until the declaration of the state of emergency made under the Emergency Program Act on March 18, 2020 is cancelled or expires without being extended: a document of the type described in section 88 or 89 of the Residential Tenancy Act has been sufficiently given or served for the purposes of the applicable Act if the document is given or served on the person in one of the following ways:

- the document is emailed to the email address of the person to whom the document is to be given or served, and that person confirms receipt of the document by way of return email in which case the document is deemed to have been received on the date the person confirms receipt;*
- the document is emailed to the email address of the person to whom the document is to be given or served, and that person responds to the email without identifying an issue with the transmission or viewing of the document, or with their understanding of the document, in which case the document is deemed to have been received on the date the person responds; or*
- the document is emailed to the email address that the person to whom the document is to be given or served has routinely used to correspond about tenancy matters from an email address that the person giving or serving the document has routinely used for such correspondence, in which case the document is deemed to have been received three days after it was emailed.*

The Tenants may also wish to apply for substituted service, however, 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.*

In this case, P.P. stated that the Tenants did not serve the Landlord with the Tenants' Application, therefore, I find that the Landlord was not notified about the hearing to respond to the Tenants' claims. In light of the above, I dismiss the Tenants' Application in its entirety 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: June 15, 2020

Residential Tenancy Branch