



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LEPIK CONSTRUCTION LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S, MNDCL-S, FFL

Introduction

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

- a monetary order for unpaid rent and for compensation under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67;
- authorization to retain the tenants' security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two tenants did not attend this hearing, which lasted approximately 9 minutes. The landlord's agent ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord stated that she had permission to speak on behalf of the landlord company named in this application.

The landlord testified that the tenants were served with the landlord's application for dispute resolution hearing package by way of registered mail on March 20, 2020. The landlord provided two Canada Post receipts but did not confirm the tracking numbers verbally during the hearing. She said that the mail was sent to a forwarding address provided by the tenants at the end of the tenancy on February 29, 2020. She stated that the mail was returned to the landlord sender because the tenants did not provide a complete mailing address with an apartment number. She explained that she contacted both tenants by email in April 2020 in order to get an apartment number, but they did not respond. She claimed that she does not know where they are located as they were international students from a different country.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows (my emphasis added):

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 documents].*

Residential Tenancy Policy Guideline 12 states the following, in part (my emphasis added):

*Registered mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a **named person** is available.*

*Proof of service by Registered Mail should include the original Canada Post Registered Mail **receipt containing the date of service, the address of service, and that the address of service was the person's residence at the time of service,** or the landlord's place of conducting business as a landlord at the time of service as well as a **copy of the printed tracking report.***

Accordingly, I find that the landlord did not serve the tenants with the landlord's application, as required by section 89 of the Act and Residential Tenancy Policy Guideline 12. The landlord does not know where the tenants are located. The landlord was given an incomplete mailing address without an apartment number from the tenants. The landlord was unable to get a complete mailing address despite emails to the tenants. The mail was returned to the landlord. I looked up the Canada Post online tracking reports which indicate for both tracking numbers provided in the landlord's application that the mail was: "Item being returned to sender. Incomplete address." The two tenants did not attend this hearing to confirm service.

I notified the landlord that the landlord's application was dismissed with leave to reapply, except for the \$100.00 filing fee. I informed her that the landlord could file a new application and pay a new filing fee, if the landlord wishes to pursue this matter further. I notified her that if the landlord was serving again by registered mail, the landlord would

be required to provide documentary proof of the tenants' valid and current forwarding or residential address, as well as proof of the registered mail as per Residential Tenancy Policy Guideline 12 above.

Conclusion

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the landlord'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: July 17, 2020

Residential Tenancy Branch