



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RP RR OLC FF

Introduction

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

- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. The landlord did not attend the hearing.

Preliminary Issue: Service of Tenant's Application

The tenants testified that on June 9, 2020, they sent a copy of the Application for Dispute Resolution and Notice of Hearing to the landlord by Xpresspost, regular mail and by e-mail. A Canada Post delivery receipt shows the item as being delivered on July 10, 2020; however, the tenants did not request a signature upon delivery. The tenants testified that the address the package was sent to was obtained from a neighbor. The tenants testified that they confirmed this address belonged to the landlord by a Land Title search but did not submit any evidence in support. The tenants submit that the landlord's address for service on the tenancy agreement is no longer valid as it was the address of a property management company no longer acting on the landlord's behalf. The tenants did not provide any proof of service by e-mail or whether the landlord received or responded to the e-mail or regularly communicated with the tenants by such e-mail.

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]...*

The tenants did not provide sufficient evidence to support that the landlord resides at the address to which they sent a copy of their Application for Dispute Resolution. The tenants did not request a signature upon delivery of the xpresspost mail package which is an included option with registered mail service. The tenants did not provide sufficient evidence to support the landlord was served by e-mail.

I am not satisfied the landlord has been served with the tenant's application for dispute resolution by registered mail at an address at which she resides or carries on business or in any other manner required by section 89(1) of the *Act*.

Conclusion

I dismiss the tenants application with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

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 03, 2020

Residential Tenancy Branch