



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, PSF

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the *Act*), I was designated to hear an application regarding the above-noted tenancy. The tenant applied for:

- an order for the landlord to comply with the *Act*, regulation and/or tenancy agreement pursuant to section 62; and
- an order requiring the landlord to provide services or facilities as required by the tenancy agreement or the *Act* pursuant to section 62.

I left the teleconference connection open until 9:42 A.M. to enable the landlord (respondent) to call into this teleconference hearing scheduled for 9:30 A.M. The landlord did not attend the hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the tenant (applicant) and I were the only ones who had called into this teleconference. The tenant was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenant affirmed he served the application on June 16 and the evidence on June 29, 2020. Both packages were served by email. The emails were not submitted into evidence.

The Residential Tenancy Branch Director's order dated March 30, 2020 provides that:

Pursuant to sections 71(2)(b) and (c) of the Residential Tenancy Act and sections 64(2)(b) and (c) of the Manufactured Home Park Tenancy Act, I order that, 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 or section 81 or 82 of the Manufactured Home Park 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 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

Rule of Procedure 3.5 states:

3.5 Proof of service required at the dispute resolution hearing

At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure.

As the emails were not submitted by the tenant, I can not confirm the emails were sent to the email address that the tenant has routinely used to correspond about tenancy matters with the landlord.

Thus, I find the landlord was not served in accordance with the director's order or the Act.

Conclusion

I dismiss the tenant's application 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 14, 2020