



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, MNRL-S, MNDCL-S, FFL

Introduction

This hearing was scheduled to convene at 1:30 p.m. on September 21, 2020 concerning an application made by the landlord seeking the following relief:

- a monetary order for damage to the rental unit or property;
- a monetary order for unpaid rent and utilities;
- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement;
- an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and
- to recover the filing fee from the tenants for the cost of the application.

The landlord was represented at the hearing by an agent who gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenants joined the call. The landlord testified that the tenants were served individually by email with the Application for Dispute Resolution, notice of this hearing, and evidence (the Hearing Package) by email on June 3, 2020. The landlord's agent was permitted to provide proof of such service after the hearing had concluded.

The *Residential Tenancy Act* requires that an applicant must serve the Hearing Package on each respondent as follows:

89 (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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*].

Also, the Director's Order dated March 30, 2020 states that until the declaration of state of emergency expires, Section 88 or 89 documents can be served by email with acknowledged receipt; or email with a response but without identifying any problem of transmission; or by email if person served has routinely used the email address. This order expired on June 23, 2020.

The landlord testified that he received information that the tenants could be served by email, but, having been given 7 days to provide evidence of proper service, the landlord has not provided evidence that either of the tenants has acknowledged receipt of the hearing package or that either tenant has routinely used the email addresses that the landlord sent the Hearing Packages to.

The landlord has not provided any evidence that either tenant was served with the Hearing Package in accordance with Section 89.

Since I am not satisfied that either tenant has been served in accordance with the *Act* or the Ministerial Order, I dismiss the landlord's application in its entirety, with leave to reapply.

Conclusion

For the reasons set out above, the landlord's application is hereby 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: September 28, 2020

Residential Tenancy Branch