



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Adriatic Court - Renfrew Holdings
Ltd and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, LRE, FFT

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:

- cancellation of the One Month Notice to End Tenancy for Cause (the Notice), pursuant to section 47 of the Act;
- an order to restrict or suspend the landlord's right of entry, pursuant to section 70 of the Act; and
- an authorization to recover the filing fee for this application, pursuant to section 72 of the Act.

I left the teleconference connection open until 11:14 A.M. to enable the landlords to call into this teleconference hearing scheduled for 11:00 A.M. The landlords did not attend the hearing. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. 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 and I were the only ones who had called into this teleconference.

The tenant (applicant) testified she served both respondents (landlords) the notice of hearing and evidence in a package sent by registered mail. Later she affirmed she may have sent two packages. At first the tenant was not able to inform me of the date she sent the packages. Later she affirmed she mailed it on September 11, 2020. The tenant did not provide a tracking number.

Section 89 of the Act states:

(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].

(2) An application by a landlord under section 55 [order of possession for the landlord], 56 [application for order ending tenancy early] or 56.1 [order of possession: tenancy frustrated] must be given to the tenant in one of the following ways:

- (a) by leaving a copy with the tenant;
- (b) by sending a copy by registered mail to the address at which the tenant resides;
- (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
- (d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;
- (e) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents].

Residential Tenancy Branch Policy Guideline 12 states:

All parties named on an application for dispute resolution must be served notice of proceedings, including any supporting documents submitted with the application. **Where more than one party is named on an application for dispute resolution, each party must be served separately. Failure to serve documents in a way recognized by the Legislation may result in the application being adjourned, dismissed with leave to reapply, or dismissed without leave to reapply.**
[emphasis added]

Based on the tenant's testimony, I find the landlords were not served in accordance with the Act, as both of them were served together and the tenant was not able to provide the tracking number for the registered mail.

As such, I dismiss the tenant's application for cancellation of the Notice and for an order to restrict the landlord's right of entry with leave to reapply.

As the tenant was not successful in this application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the tenant's application for cancellation of the Notice and for an order to restrict the landlord's right of entry with leave to reapply.

I dismiss the tenant's application to recover the filing fee without 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: October 21, 2020

Residential Tenancy Branch