



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, RR

Introduction

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46; and
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65.

The landlord did not attend this hearing, although I left the teleconference hearing connection open until 9:41 a.m. in order to enable them to call into this teleconference hearing scheduled for 9:30 a.m. The tenants attended the hearing and were given a full opportunity to be heard, to present sworn 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. During the hearing, I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

Preliminary Issue - Service of Application for Dispute Resolution

The tenants gave sworn testimony that they sent the landlord a copy of their dispute resolution hearing package to the landlord by registered mail on September 6, 2020. Although I gave them time to try to locate the Canada Post Tracking Number or Customer Receipt to confirm their registered mailing of this package to the landlord, they were unable to find either of these documents. I also note that the tenants did not provide a copy of the 10 Day Notice that they were attempting to have cancelled.

Analysis - Service of Application for Dispute Resolution

Section 89(1) of the *Act* establishes the following Special Rules for certain documents, which include an application for dispute resolution to cancel a notice to end tenancy:

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]...*

Section 15 of Residential Tenancy Guideline 12 on Service Provisions reads in part as follows:

...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...

As the tenants did not have the Canada Post Registered Mail receipt or Canada Post Tracking Number to demonstrate service of their dispute resolution hearing package to the landlord, I find that the tenants have not provided sufficient details to confirm that these packages were served to the landlord in accordance with section 89(1) of the *Act*. As I am not satisfied that the tenants have demonstrated that they have properly served the landlord with copies of their application for dispute resolution or the Notice of Hearing, I dismiss this application with leave to reapply.

Conclusion

I dismiss the tenants' application with leave to reapply. Leave to reapply does not extend any deadlines established pursuant to the *Act*.

In the event that the tenants apply to cancel a Notice to End Tenancy issued by the landlord, they need to provide a copy of the Notice to End Tenancy as part of their application for dispute resolution as well as any evidence upon which they intend to rely.

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 26, 2020

Residential Tenancy Branch