



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

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

- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement in the amount of \$4,149.58 pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 1:41 pm in order to enable the tenant to call into this teleconference hearing scheduled for 1:30 pm. The landlord 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 landlord and I were the only ones who had called into this teleconference.

Preliminary Issue – Service

The landlord testified she served that the tenant with the notice of dispute resolution form and supporting evidence package by posting it on the door of the rental unit. At the hearing, I questioned the landlord in order to determine whether the tenant was residing in the rental unit at the time of service. I concluded that she was and indicated that the posting on the door constituted valid service and proceeded with the hearing. However, I erred in this finding, as I neglected to consider the type of application being brought by the landlord when determining if service was valid.

My findings as to the efficacy of service are as follows.

For many instances, service of documents by posting them on the door is a valid form of service. However, section 89(1) of the Act creates special rules for applications for dispute resolutions:

Special rules for certain documents

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*].

This section does not include service by posting on the door.

Section 89(2) of the Act permits applications for dispute resolutions wherein the landlord seeks an *order of possession* to be served by posting on the door of the rental unit where the tenant resides:

(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*].

As stated above, the landlord seeks monetary relief only in this application. As such, it must be served in accordance with section 89(1) of the Act. Accordingly, the service of the notice of dispute resolution and supporting material by posting it to the door of the rental unit is not valid service.

I must therefore dismiss this 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: November 4, 2020

Residential Tenancy Branch