



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT

The tenants filed an Application for Dispute Resolution on August 17, 2020 seeking compensation for monetary loss or other money owed. The matter proceeded by way of a hearing pursuant to section 74(2) of the *Residential Tenancy Act* (the “Act”) on December 7, 2020. In the conference call hearing I explained the hearing process and provided the attending party the opportunity to ask questions.

In the hearing, one tenant gave evidence on the attempt they made to serve the landlord with the Notice of Dispute Resolution Proceeding (the “Notice”). The landlord did not attend the conference call hearing.

Preliminary Matter

To proceed with this hearing, I must be satisfied that the tenants made reasonable attempts to serve the landlord with the Notice. This means they must provide proof that the document has been served in manner allowed under Section 89 of the Act, and I must accept that evidence.

One of the tenants gave testimony that they sent the Notice to the landlord by mail. When queried, they stated this was not registered mail, and there was no tracking number. They provided that they sent the mail to the address that was provided by the landlord on a previously completed ‘Mutual Agreement to End Tenancy’ and tenancy agreement that the parties completed some time earlier.

Section 89(1) of the *Act* stipulates that 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 documents*].

I find that the tenants have not fulfilled the service provisions under section 89 of the *Act*. I make this finding due to the one tenant testifying that they did not use registered mail. This leaves the delivery status of the mail unverified, which in turn leaves the address used unverified.

There is also no other evidence that the tenants undertook to examine other ways to effect service as per section 89 of the *Act*. Therefore, I find the tenants have not served the documents in a way recognized by the *Act*. In line with the principles of administrative fairness, the landlord must have the opportunity to address the tenants' application for monetary compensation. The *Act* prescribes certain methods of service for this very reason.

Conclusion

I dismiss the tenants' application for compensation, 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 *Act*.

Dated: December 7, 2020

Residential Tenancy Branch