



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL-S, FFL

Introduction

This hearing dealt with the landlords' application pursuant to section 58 of the *Residential Tenancy Act* ("Act") for:

- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67;
- authorization to retain the tenants' security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

"Landlord KM" and the two tenants did not attend this hearing, which lasted approximately 15 minutes. Landlord LM ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that she had permission to represent landlord KM at this hearing (collectively "landlords").

Preliminary Issue – Service of Landlords' Application

The landlord testified that the tenants were served with the landlords' application for dispute resolution hearing package on November 10, 2020, by way of posting to the door at the tenants' pet store business. The landlord stated that the tenants did not provide a forwarding address to her.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows (my emphasis added):

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 documents].

I find that the landlords failed to prove service in accordance with section 89(1) of the *Act* and the tenants were not served with the landlords' application. Posting to the door is not permitted under section 89(1) of the *Act*. Further, the landlords did not serve the tenants at a residential address or a forwarding address provided by the tenants. The landlords used an employment address, which was not provided by the tenants as a service address. The landlords are not permitted to serve the tenants at an employment address under section 89(1) of the *Act*. The tenants did not appear at this hearing to confirm receipt of the landlords' application.

During the hearing, I informed the landlord that the landlords' application was dismissed with leave to reapply, except for the filing fee. I notified her that the landlords could file a new application, pay a new filing fee, and provide proof of service, if they wish to pursue this matter in the future. The landlord confirmed her understanding of same.

I notified the landlord that I could not provide legal advice to her. I informed her that she could speak to her lawyer after the hearing was over, regarding the security deposit, including sections 38 and 39 of the *Act* and Residential Tenancy Policy Guideline 17.

Conclusion

The landlords' application to recover the \$100.00 filing fee is dismissed without leave to reapply. The remainder of the landlords' application is 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: March 04, 2021