



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPM

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for an Order of Possession for a Mutual Agreement to End Tenancy pursuant to section 55.

Neither of the tenants attended the hearing which commenced at 9:30 a.m. and ended at 9:50 a.m. I left the teleconference connection open throughout the hearing and 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.

The landlord was represented at the hearing by agents, AG and JG ("landlord"). The landlord testified that she served the Notice of Dispute Resolution Proceedings on each of the tenants by registered mail to the rental unit she wants possession of, on March 4, 2021. The landlord provided tracking numbers for each of the mailings, recorded on the cover page of this decision.

The landlord testified that the tenants vacated the rental unit some time in mid-January 2021 and did not provide a forwarding address. There are other people, associates of the tenants, who are now occupying the rental unit and the landlord has given these people receipts for "use and occupancy" for the rent money being paid by them.

Analysis

An Application for Dispute Resolution is a document that must be served in accordance with section 89 of the Act. When serving an Application for Dispute Resolution to a tenant by registered mail, a landlord must serve in accordance with section 89(1)(c): by registered mail to the address at which the person resides, or section 89(1)(d): if the

person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant.

Service of an Application for Dispute Resolution by registered mail is examined in section 3 of the Residential Tenancy Branch Policy Guideline PG-12 [Service Provisions]:

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.

...

Registered Mail

Where a landlord is serving a tenant by Registered Mail, the address for service must be where the tenant resides at the time of mailing, or the forwarding address provided by the tenant.

The landlord testified that on March 4th, she served the tenants by registered mail to an address where the tenants no longer resided at the time of mailing, having vacated the rental unit in mid-January. As such, I find the tenants were not sufficiently served with the Notice of Dispute Resolution Proceedings. As a result, I dismiss the landlord's application with leave to reapply.

As the tenants have not provided a forwarding address, the landlord is at liberty to seek an order for under section 71 of the Act to serve the tenants by substituted service should the landlord require it.

Conclusion

The landlord's 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 29, 2021

Residential Tenancy Branch