



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNETC, FFT**

Introduction

This hearing was scheduled for 1:30 p.m. on May 4, 2021, via teleconference call, to deal with a tenant's application for monetary compensation payable where the tenancy has ended with a *Two Month Notice to End Tenancy for Landlord's Use of Property* ("2 Month Notice") so that the purchaser, or purchaser's close family member, may occupy the rental unit and the property was not occupied by the purchaser or purchaser's close family member after the tenancy ended, as provided under section 51(2) of the Act.

The tenant and his spouse appeared at the hearing.

The tenant requested the Application for Dispute Resolution be amended to name only him as the tenant as he is the only tenant named on the tenancy agreement and the 2 Month Notice; however, the tenant requested that his spouse represent him during the hearing. The amendment was made accordingly.

Since the respondent purchaser did not appear, I explored service of hearing materials upon the respondent. The tenant's representative testified that the proceeding package and supporting documents were sent to the purchaser of the property using registered mail addressed to him at the rental unit address on January 5, 2021. A registered mail receipt, including tracking number, was provided as proof of service. A search of the registered mail tracking number showed that the registered mail was deposited in a community mailbox by Canada Post on January 7, 2021 but there is no signature of the recipient.

The tenant's representative explained that they sent the hearing package to the respondent/purchaser at the rental unit address because, despite their position that he did not move into the rental unit and the rental unit was re-rented after the tenancy ended, they did not have any other address for service for the respondent purchaser.

The 2 Month Notice that was served upon the tenants by their former property manager provides the purchaser's name but it does not include the purchaser's address in the space provided. I noted the 2 Month Notice indicates the Contract of Purchase and Sale was attached to the 2 Month Notice and the tenant's representative confirmed that it was. I ordered the tenant's representative to provide me with a copy of the Contract of Purchase and Sale, which the tenant's representative did. Upon review of the Contract of Purchase and Sale, I note the purchaser's name is provided but the area for the purchaser's address was left blank.

The tenant's representative stated they asked the realty company named on the Contract of Purchase and Sale for the purchaser's address but they would not release that information to the tenant. However, the tenant's representative confirmed to me that they did not search the British Columbia Assessment records or Land Title office records for the name and address of the registered owner of the property.

Section 89(1) of the Act provides for the ways an Application for Dispute Resolution for a monetary order must be served upon the other party. Below, I have reproduced section 89(1).

- 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*];**
 - (f) by any other means of service provided for in the regulations [email].

In this case, the tenant used registered mail as the method of service. As such, I must be satisfied that the address used to send the registered mail was either the respondent's address of residence or the address where the respondent carries on business as a landlord.

The tenant submitted to me after the tenancy ended the unit was vacant while it appeared renovations were underway and then it was re-rented to new tenants in mid to late January 2021. Based on the tenant's own submissions, the respondent/purchaser was not residing in the rental unit when the registered mail was sent to him at the rental unit. In the absence of an address for the purchaser appearing on the 2 Month Notice; the Contract of Purchase and Sale; and, considering the tenant did not perform a search at the British Columbia Assessment or Land Title offices, I find I am unsatisfied the rental unit address is the address where the purchaser is carrying on business as a landlord. Therefore, I find there is insufficient evidence to satisfy me that the respondent purchaser was duly served.

In light of the above, I do not consider the claims against the respondent/purchaser any further; however, I dismiss the tenant's Application for Dispute Resolution 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: May 06, 2021

Residential Tenancy Branch