



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR, MNRL, MNDCL, FFL

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”).

The Tenant applied on March 8, 2021 for:

1. An Order cancelling a notice to end tenancy - Section 46.

The Landlord applied on March 15, 2021 with an amendment made on April 21, 2021 for:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent or utilities - Section 67;
3. A Monetary Order for compensation - Section 67; and
4. An Order to recover the filing fee for this application - Section 72.

The Tenants did not attend the hearing that was scheduled to commence at 1:30 p.m. on this date and lasted for 18 minutes. The Landlords appeared and were ready to proceed. As the Tenants did not attend the hearing to pursue their application, I dismiss their application.

Service Requirements

The Landlord states that their application for dispute resolution, notice of hearing and evidence (the “Hearing Package”) was sent to the Tenants by registered mail to the Tenants forwarding address, the Tenant’s workplace and to the dispute address. The Landlord is unsure of the dates of that registered mail. The Landlord states that all three packages were returned to the Landlord. The Landlord states that they also sent

the hearing package by email on March 15, 2021 to the Tenants. The Landlord confirms that the Tenants did not specifically provide the email addresses for service of documents from the Landlord. It is noted that the Landlord was not organized for providing evidence of service at the hearing and repeatedly gave inconsistent evidence of service before settling on the evidence set out above.

Section 59(3) of the Act provides that a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director. Section 89(1) of the Act provides that an application for dispute resolution 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.

Section 43(2) of the Regulations provides that for the purposes of section 89 (1) (f) [*special rules for certain documents*] of the Act, the documents described in section 89 (1) of the Act may be given to a person by emailing a copy to an email address provided as an address for service by the person. Residential Tenancy Branch (the "RTB") Policy Guideline #12 provides as follows:

To serve documents by email, the party being served must have provided an email address specifically for the purposes of being served documents. If there is any doubt about whether an email address has been given for the purposes of

giving or serving documents, an alternate form of service should be used, or an order for substituted service obtained.

Service to a tenant's workplace is not provided as an approved method of service under the Act. As the Landlord did not provide evidence that the application for dispute resolution was provided to each Tenant by registered mail within the required time and as the Landlord did not obtain the Tenants' email addresses specifically for service, I find that the Landlord has not sufficiently substantiated that it served the Tenants as required under the Act. I therefore dismiss the Landlord's application with leave to reapply. Leave to re-apply is not an extension of any applicable limitation period.

This decision is made on authority delegated to me by the Director of the RTB under Section 9.1(1) of the Act.

Dated: June 15, 2021

Residential Tenancy Branch