



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding W & S Bernard Investments
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFT, MNDCT

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution, made on March 4, 2021 (the "Application"). The Tenants applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage or compensation; and
- an order granting recovery of the filing fee.

The Tenants and the Landlord's Agent T.C. attended the hearing at the appointed date and time. At the start of the hearing, the Tenants stated that on March 6, 2021 they served the Landlord's Agent with the Application and documentary evidence by email, by posting it to the Landlord's Agents' door, and also by placing it in the mailbox.

The Landlord's Agent stated that he did not receive any documents from the Tenants and that he only found out about the hearing from the Residential Tenancy Branch. The Landlord's Agent stated that he does not have the details of the dispute, nor has he had an opportunity to respond to the Application.

Analysis – Service of Tenants' Application

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

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 document]...

The Residential Tenancy Branch Regulations outlines other means of giving or serving documents;

Section 43 (1) For the purposes of section 88 (j) [*how to give or serve documents generally*] of the Act, the documents described in section 88 of the Act may be given to or served on a person by emailing a copy to an email address provided as an address for service by the person.

(2) 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.

(3) For the purposes of section 89 (2) (f) of the Act, the documents described in section 89 (2) of the Act may be given to a tenant by emailing a copy to an email address provided as an address for service by the tenant.

The Tenants have not served the Landlord in a manner required by section 89(1) of the Act. Furthermore, the Tenants have provided insufficient evidence to demonstrate that the Landlord has provided an email address for service of documents. I am not satisfied that the Landlord was properly served with the Tenant's Application for dispute resolution or documentary evidence.

During the hearing, it was discussed that the Tenants' Application would be adjourned, however, after further consideration, I find that the Tenant's Application is dismissed with leave to reapply.

Should the Tenants' reapply, the Tenants are to adhere to the Sections of the Act provided above. Furthermore, the parties are encouraged to consult the Residential Tenancy Branch Rules of Procedure which includes rules around deadlines for serving documents.

Conclusion

The Tenants have not served the Landlord with the Application in accordance with the Section 89 of the Act. As such, the Tenants' Application is dismissed with leave to reapply. This does not extend any statutory timelines.

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: July 13, 2021

Residential Tenancy Branch