



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC, MNDCT, FFT

Introduction

On February 23, 2021, the Tenants submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting monetary compensation from the Purchasers related to a Notice to End Tenancy for Landlord’s Use of Property, monetary compensation for losses, and to recover the cost of the filing fee. The matter was set for a participatory hearing via conference call.

The Tenants attended the hearing; however, the Purchasers did not attend at any time during the 26-minute hearing.

Preliminary Matters – Service of Notice of Dispute Resolution Proceedings

Residential Tenancy Branch Rules of Procedure - 3.5 states that at the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package (the “Notice package”) and all evidence as required by the Act and these Rules of Procedure.

In this case, the Residential Tenancy Branch sent the Notice package to the Applicants/Tenants on March 5, 2021. The Tenants testified that they sent the Notice package to the Respondents/Purchasers via registered mail, to the Purchasers’ property management company on March 6, 2021 and provided the Canada Post tracking numbers.

The hearing proceeded and the Tenants submitted a Tenant Occupied Property – Buyers Notice to Seller for Vacant Possession (“Buyers Notice”) as part of their evidence. I noted that the Purchaser, noted as the “Buyer” on the document, had provided an address for the purpose of giving the tenants notice under section 49 of the Act. The address was provided as “C/o Selling Brokerage”.

The Tenants testified that they did not attempt to serve the Notice package to the brokerage company and only did so to the Purchasers' current property management company, contrary to the direction of the Buyers Notice.

I note that the Purchasers' address provided to the Tenants on the Buyers Notice is not very clear and not overly helpful for the Tenants. Furthermore, I acknowledge the Tenants did their best to follow through with providing proper service to the Purchasers by sending the Notice of Dispute Resolution Proceedings to the Purchasers' property management company.

However, and regardless of the Tenants' efforts, I find that the Tenants failed to provide sufficient evidence that they served the Notice of Dispute Resolution Proceeding package to the Purchasers at the service address provided, and pursuant to the Rules of Procedure and the Act.

As I result, I dismiss the Tenants' Application with leave to reapply.

Conclusion

I dismiss the Tenants' Application for Dispute Resolution with leave to reapply; however, this does not extend any applicable time limits under the Legislation. I have not made any findings of fact or law with respect to this Application.

In the event that the parties decide to reapply for dispute resolution, they will be required to resubmit all written evidence, upon which they intend to rely, to each other again. They will also need to submit their evidence to the Residential Tenancy Branch's online portal again.

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 14, 2021

Residential Tenancy Branch