



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the *Act*) for a Monetary Order for 12 months' rent compensation related to a Notice to End Tenancy for Landlord's Use of Property.

The landlord did not attend this hearing, although I left the teleconference hearing connection open until 1:40 p.m. in order to enable the landlord to call into this teleconference hearing scheduled for 1:30 p.m. The tenants attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. 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 tenants and I were the only ones who had called into this teleconference.

The tenants were advised that Rule 6.11 of the Residential Tenancy Branch Rules of Procedure prohibits the recording of dispute resolution hearings. Tenant M.S. testified that they are not recording this dispute resolution hearing.

Preliminary Issue- Service

The tenants testified that they served the landlord with this application for dispute resolution via email on March 10, 2021. The tenants entered into evidence an undated text message exchange between the tenants and the landlord which states:

Tenants: Hi [landlord], I was wondering if you had email I can msg you at? Thank you

Landlord: Sorry this is my email [email provided]

The tenants entered into evidence an email from the tenants to the email address provided by the landlord in the above text message dated March 10, 2021. The March 10, 2021 email contains four attachments, only two can be seen in the email. The two attachments that can be seen are labelled "Dispute Notice" and "Respondent Instructions". In the body of the email the tenants have included the undated text message exchange reproduced above.

Section 89(1)(f) of the *Act* states:

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:

(f)by any other means of service provided for in the regulations.

Section 43(2) of the Regulation to the *Act* states

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 Guideline #12 states:

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.

I find that providing an email address that a party can be messaged at is not the same as providing an email address for service. Messages at an email address not specifically provided for service purposes may be checked infrequently and the body of those messages may not be checked at all. An address that a party specifically provides

for the purpose of service of legal documents is more likely to be checked frequently and the emails opened.

I find that the text message entered into evidence did not provide the tenants with authorization to serve the landlord at the email address provided. I find that the text message only allowed the tenant to message the landlord at the email address provided. I therefore find that the tenant has not served the landlord in accordance with section 89(1)(f) of the *Act*, or any other permitted manner set out in section 89 of the *Act*. The tenants' application is therefore dismissed with leave to reapply.

I notified the tenants that if they wished to pursue this matter further, they would have to file a new application. I cautioned the tenants to be prepared to prove service at the next hearing, as per section 89 of the *Act*. I informed the tenants that they could apply for a substituted service order pursuant to section 71 of the *Act*, if they had sufficient evidence to do so. I informed the tenants that if he did not have the landlord's forwarding address they could hire a skip tracer to locate the landlord.

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 15, 2021

Residential Tenancy Branch