



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Xenon Development
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

MNDL-S, OPC, MNDCL-S, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- A monetary award for damages and loss pursuant to section 67;
- Authorization to retain the deposit for this tenancy pursuant to section 38;
- An order of possession pursuant to section 55; and
- Authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The corporate landlord was represented by their agent (the "landlord") who was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord was made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and they testified that they were not making any recordings.

The landlord testified that the tenant was served with the notice of application and evidence by attaching a copy on the rental unit door on April 12, 2021.

At the outset of the hearing the landlord said the tenant has vacated the rental unit and withdrew the portion of their application seeking an Order of Possession.

Issue(s) to be Decided

Is the landlord entitled to the monetary award sought?

Analysis

Section 89(1) of the Act established the manners by which documents, including an application for dispute resolution for a monetary award may be served. The section 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:

- (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.

Posting a copy on the rental unit door or other conspicuous place at the address at which the tenant resides is not an acceptable means of service under this portion of the Act.

Based on the undisputed evidence of the landlord that they have only attempted to serve the tenant by posting on the rental unit door, I find that the tenant has not been served in accordance with the Act. Consequently, I dismiss the landlord's application with leave to reapply.

Conclusion

The portion of the landlord's application seeking an Order of Possession is withdrawn and dismissed without leave to reapply.

The balance of the landlord's application is dismissed 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: August 12, 2021

Residential Tenancy Branch