



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OLC, MNDCT, FFT

Introduction

The tenants filed an Application for Dispute Resolution (the “Application”) on May 22, 2021 seeking the landlord’s compliance with the legislation and/or the tenancy agreement, compensation for the costs of emergency repairs that they made, and the Application filing fee. The matter proceeded by way of a hearing pursuant to s. 67(2) of the *Manufactured Home Park Tenancy Act* (the “Act”) on September 10, 2021.

The tenants attended the hearing; the landlord did not. In the conference call hearing I explained the process and offered the tenant the opportunity to ask questions. I provided them the opportunity to present oral testimony and make oral submissions during the hearing.

Preliminary Matter

To proceed with this hearing, I must be satisfied that the tenants made reasonable attempts to serve the Notice of Dispute Resolution (the “Notice”) to the landlord. This means the tenants must provide proof that the document was served in a manner allowed under s. 82 of the *Act*, and I must accept that evidence.

In the hearing, the tenants provided that they gave the Notice, and their prepared evidence, to a receptionist who worked at the business centre where the landlord’s place of business is located. This was on August 23, 2021. The tenants had that receptionist state the time of receipt of that document. They provided a single image of the door of the business centre.

The *Act* s. 82(1) stipulates that 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 s.64 (1) [*director's orders: delivery and service of documents*];
- (f) by any other means of service provided for in the regulations.

I find the tenants did not carry the service provisions under s. 82 of the *Act* as required. I make this finding due to their delivery method of the hearing package (including, most importantly, the Notice) being not direct. This involved a third party who was not positively identified by the tenant as an agent of the landlord.

The *Residential Tenancy Branch Rules of Procedures* Rule 3 provides the rules on serving the application and hearing information. This is to ensure the objective of a fair, efficient, and consistent process for resolving disputes. Rule 3.1 sets the timeline of initial service after an application:

The applicant must, within three days of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the Notice of Dispute Resolution Proceeding . . .
- b) the Respondent Instructions for Dispute Resolution;
- c) the dispute resolution process fact sheet (RTB-114) . . . provided by the Residential Tenancy Branch; and
- d) any other evidence submitted to the Residential Tenancy Branch . . .

The fact sheet *Residential Tenancies Fact Sheet – The Dispute Resolution Process* (RTB-114) reiterates this three-day timeline. This is separate from the end date for providing *evidence*, where “an applicant must service and submit *evidence* as soon as possible so that it is received not less than 14 days before the hearing.”

I find the Notice was not served in a way recognized by the *Act* or the *Rules of Procedure*. For these reasons, I dismiss the tenants' Application, with leave to reapply.

Conclusion

I dismiss the tenants' Application, with leave to reapply. The portion of the Application wherein the tenants claim reimbursement of the Application filing fee is dismissed *without* leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: September 13, 2021

Residential Tenancy Branch