



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC, FFT

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* ("Act"), for:

- a monetary order for compensation from the landlords related to a Notice to End Tenancy for Landlord's Use of Property, pursuant to section 51; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two landlords did not attend this hearing, which lasted approximately 11 minutes, from 11:00 to 11:11 a.m. Tenant KR ("tenant") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

I monitored the teleconference line throughout this hearing. 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 tenant and I were the only people who called into this teleconference.

The tenant confirmed that he had permission to represent the other three tenants named in this application (collectively "tenants").

At the outset of this hearing, I informed the tenant that Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* does not permit recording of this hearing by anyone. The tenant affirmed, under oath, that he would not record this hearing.

During this hearing, I explained the hearing process to the tenant. He had an opportunity to ask questions. He did not make any adjournment or accommodation requests.

Preliminary Issue – Service of Tenants’ Application

The tenant testified that the landlords were served with the tenants’ application, by way of registered mail. He said that he did not know the dates of service because Canada Post never gave him any dates. He stated that he thought it was served this year. He claimed that there were no addresses or other information from Canada Post. He claimed that he was unable to find the Canada Post receipts with the dates or addresses and said he was searching through his banking documents during this hearing.

Section 89(1) of the *Act* states the following (my emphasis added):

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 documents];*
- (f) by any other means of service provided for in the regulations.*

Residential Tenancy Policy Guideline 12 states the following, in part (my emphasis added):

*Registered mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a **named person** is available.*

*Proof of service by Registered Mail should include the **original Canada Post Registered Mail receipt containing the date of service, the address of service, and that the address of service was the person’s residence at the time of service, or the landlord’s place of conducting business as a landlord at the time of service as well as a copy of the printed tracking report.***

I find that the tenants did not serve the landlords with the tenants' application, as required by section 89 of the *Act* and Residential Tenancy Policy Guideline 12.

The tenant did not provide dates or addresses for service of the registered mail, during this hearing. The tenant was given ample time of 11 minutes during this hearing, to find and provide this information. The landlords did not attend this hearing to confirm service.

I notified the tenant that the tenants' application was dismissed with leave to reapply, except for the filing fee. I informed him that the tenants could file a new application and pay a new filing fee, if they decide to pursue this matter in the future.

Preliminary Issue – Inappropriate Behaviour by the Tenant during this Hearing

Rule 6.10 of the RTB *Rules of Procedure* states the following:

6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing
Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.

From the outset of this hearing, the tenant was very angry, upset and agitated. When I asked him how and when he served the tenants' application to the landlords, he asked why he had to provide this information. I informed him that the landlords were not present at the hearing, as the tenant heard me verbally check the teleconference line repeatedly to ask if the landlords were present. I notified him that I had to confirm that the landlords were served before I could proceed with this hearing.

The tenant was given ample time of 11 minutes during this hearing, to search for service information. During this hearing, the tenant could be heard walking around, speaking to a female in the background, and said he was checking his banking records online. The tenant was upset, as he stated: "no one has asked me for this before" and "I have four kids, there's only so much I can do." When I informed the tenant that he could reapply, the tenant said: "so I have to wait 6 months for this?" and "now I'm going to lose my money."

When I informed the tenant about my decision verbally during this hearing, he stated: “you’re a fucking piece of shit.” The tenant then disconnected from this hearing, without warning, at 11:11 a.m. I was still speaking to him, thanking him for attending the hearing, and informing him that the conference was over.

I caution the tenant to not engage in the same inappropriate behaviour at any future hearings at the RTB, as this behaviour will not be tolerated, and he may be excluded from future hearings. In that case, a decision will be made in the absence of the tenant.

Conclusion

The tenants’ application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the tenants’ 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: September 24, 2021

Residential Tenancy Branch