



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, PSF, CNC

Introduction

This hearing was convened as a result of the Tenant's Applications for Dispute Resolution. The Tenant made her first Application on July 26, 2021, seeking the following relief pursuant to the *Residential Tenancy Act* (the "Act"):

- an order that the Landlord comply with the *Act*;
- an order that the Landlord provide a service or facility; and

The Tenant submitted her Second Application on August 17, 2021 seeking to:

- to cancel a One Month Notice to End Tenancy dated August 8, 2021 ("the One Month Notice").

The hearing was scheduled for 9:30 AM on November 26, 2021 as a teleconference hearing. The Tenant and the Tenant's Advocate Y.B. attended the hearing at the appointed date and time. No one appeared for the Landlord. The conference call line remained open and was monitored for 14 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Tenant, the Tenant's Advocate and I were the only persons who had called into this teleconference.

At the start of the hearing, the Tenant stated that she served the Landlord with her first Application by Registered Mail. The Tenant could not recall which date the Application was sent. Furthermore, the Tenant stated that she did not have the tracking information available to confirm the service of the first Application.

The Tenant's Advocate confirmed that she assisted the Tenant with serving the Landlord with the Tenant's second Application. The Tenant's Advocate stated that the Tenant's second Application, seeking to cancel the One Month Notice was served to the Landlord

by Registered Mail on September 2, 2021. The Tenant's Advocate provided the tracking number associated with the Registered Mailing in support.

Preliminary Matters

According to the Rules of Procedure 3.5 Proof of service required at the dispute resolution hearing:

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 and all evidence as required by the Act and these Rules of Procedure.

I find that the Tenant provided insufficient evidence to demonstrate that they served the Landlord with her first Application in accordance with the Act and Rules of Procedure. As such, I dismiss the Tenant's first Application with leave to reapply.

I find the Tenant provided sufficient evidence to demonstrate that they served the Landlord with the second Application by Registered Mail on September 2, 2021. Pursuant to Section 89 and 90, I find that the Landlord is deemed to have received the Tenant's Second Application 5 days later, on September 7, 2021.

As no one attended the hearing for the Landlord to testify in support of the One Month Notice, I find that the Tenant's Application to cancel the One Month Notice is successful. I therefore set the One Month Notice date August 8, 2021 aside, and order that the Tenancy continue until it is ended in accordance with the *Act*.

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: November 26, 2021

Residential Tenancy Branch