



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **RR, MNRT, LAT, LRE, OLC, FFT**

Introduction

The words tenant and landlord in this decision have the same meaning as in the *Residential Tenancy Act*, (the "Act") and the singular of these words includes the plural.

This hearing dealt with an application filed by the tenants pursuant the *Act* for:

- An order for a reduction of rent for repairs, services or facilities agreed upon but not provided pursuant to section 65;
- An order to recover the cost of emergency repairs made by the tenant during the tenancy pursuant to section 33;
- Authorization to change the locks to the rental unit pursuant to section 31;
- An order for the landlord to comply with the *Act*, regulations or tenancy agreement pursuant to section 70;
- An order for the landlord to comply with the *Act*, regulations or tenancy agreement pursuant to section 62; and
- Authorization to recover the filing fee from the other party pursuant to section 72

The tenants attended at the date and time set for the hearing of this matter. The landlord did not attend this hearing, although I left the teleconference hearing connection open until 11:12 a.m. in order to enable the landlord to call into this teleconference hearing scheduled for 11:00 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I also confirmed from the teleconference system that the tenants and I were the only ones who had called into this teleconference.

As only the tenants attended the hearing, I asked the tenants to confirm that they had served the landlord with the Notice of Dispute Resolution Proceeding for this hearing. The tenants testified that they served the landlord with the Notice of Dispute Resolution Proceedings by regular mail on July 30, 2021. No subsequent copies of the Notice of Dispute Resolution Proceedings package was ever sent to the landlord, however the tenants returned the landlord's keys to the rental unit by registered mail on August 13th. The tenants testified that they vacated the rental unit on August 09, 2021.

Preliminary Issue

Section 89 of the *Act* establishes the following Special Rules for certain documents, which include an application for dispute resolution:

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 document].*

Based on the tenants' evidence I find the landlord was not served with the application for dispute resolution in accordance with section 89 of the *Act*. Consequently, I dismiss with leave to reapply, the tenant's application seeking an order to recover the cost of emergency repairs made by the tenant during the tenancy. Pursuant to section 62(4), the remainder of the tenants' application is dismissed without leave to reapply since the tenancy ended on August 09, 2021 and the application no longer discloses a dispute that may be determined under part 5 of the *Act*.

Conclusion

The tenants' application seeking to recover the cost of emergency repairs made by the tenants during the tenancy is dismissed with leave to reapply.

The remainder of the application is dismissed without 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: November 18, 2021

Residential Tenancy Branch