



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC, FFT

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenants on June 03, 2021 (the “Application”). The Tenants applied for compensation from the Purchaser related to a Notice to End Tenancy for Landlord's Use of Property (the “Notice”) and reimbursement for the filing fee.

The Tenants appeared at the hearing. Nobody appeared at the hearing for the Purchaser. I explained the hearing process to the Tenants who did not have questions when asked. I told the Tenants they were not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). The Tenants provided affirmed testimony.

The Tenants confirmed the correct name of the Purchaser and this is reflected in the style of cause.

The Tenants submitted evidence prior to the hearing. The Purchaser did not submit evidence. I addressed service of the hearing package and Tenants’ evidence.

The Tenants testified that the hearing package and evidence were sent to the Purchaser by registered mail to the rental unit on June 20, 2021. The Tenants testified that they sent the package to the rental unit because they do not have the Purchaser’s address. The Tenants confirmed their position on the Application is that the Purchaser did not move into the rental unit as stated on the Notice. The Tenants confirmed Tracking Number 411 in evidence relates to the package sent.

I looked Tracking Number 411 up on the Canada Post website which shows the package was “Delivered to your community mailbox, parcel locker or apt./condo

mailbox” June 23, 2021. The Canada Post website does not show whether a signature was requested for the package. The Tenants testified that they think they requested a signature for the package. The delivery confirmation states, “Signature unavailable or not requested.”

Section 89 of the *Residential Tenancy Act* (the “*Act*”) states:

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...
- (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.

(emphasis added)

I find there are two issues with service of the Purchaser.

First, section 89 of the *Act* only permitted the Tenants to serve the Purchaser at their residence or place of business. I am not satisfied based on the evidence provided that the rental unit is either because the Tenants took the position on the Application that the Purchaser re-rented the unit and did not move into or live in the rental unit as stated on the Notice.

Second, the evidence does not show that the Tenants sought a signature for the hearing package and evidence and the Canada Post website only shows that the

package was delivered to a community mailbox versus a person. Section 1 of the *Act* defines “registered mail” as follows:

"registered mail" includes any method of mail delivery provided by Canada Post for which confirmation of delivery **to a named person** is available...(emphasis added)

Given the issues with service, I am not satisfied the Purchaser was served in accordance with section 89(1) of the *Act*. The Purchaser did not appear at the hearing. The Purchaser did not submit evidence for the hearing. In the circumstances, I am not satisfied of service and dismiss the Application **with** leave to re-apply. The Tenants can re-apply; however, the Tenants will have to serve the Purchaser in accordance with the *Act*.

Given the Tenants were not successful in the Application, the Tenants are not entitled to reimbursement for the \$100.00 filing fee. This request is dismissed **without** leave to re-apply.

Conclusion

The request for compensation from the Purchaser related to a Notice to End Tenancy for Landlord's Use of Property is dismissed **with** leave to re-apply. This decision does not extend any time limits set out in the *Act*.

The request for reimbursement for the filing fee is dismissed **without** leave to re-apply.

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

Dated: December 02, 2021

Residential Tenancy Branch