



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNQ, FFT, OLC, MNDCT, RP, LRE**

Introduction

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

- cancellation of the landlord's 2 Month Notice to End Tenancy Because the Tenant Does not Qualify for Subsidized Rental Unit pursuant to section 49.1;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order to the landlord to make repairs to the rental unit pursuant to section 33; and
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70.

The landlord did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The tenant attended and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The tenant was made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and they testified that they were not making any recordings.

The tenant testified that they served the landlord with the notice of dispute resolution proceeding and materials by leaving a copy in the landlord's mailbox. The tenant provided no documentary evidence in support of their submission and was unable to provide the specific date when they served the landlord.

At the outset of the hearing the tenant testified that this tenancy has ended and withdrew the portions of their application pertaining to an ongoing tenancy.

Issue(s) to be Decided

Is the tenant entitled to a monetary award as claimed? Is the tenant entitled to recover the filing fee from the landlord?

Analysis

Section 89(1) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution for a monetary award:

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]...*

The tenant claims they left the notice of dispute resolution in the mail box of the landlord, which is not an accepted manner of service.

I find that the tenant provided little evidence in support of their position that the landlord has been served. The tenant provided no documentary evidence of service and little cogent facts including what date they purportedly served the landlord.

In any event the method the tenant claims is not an accepted manner of service under the Act. I find that the landlord has not been served in a manner required by section 89(1) of the *Act*. I am not satisfied that the landlord was properly served with the application for dispute resolution in a manner consistent with the *Act* or at all. Consequently, I dismiss the tenant's application.

Conclusion

The portion of the tenant's application seeking a monetary award is dismissed with leave to reapply.

The balance 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: January 17, 2022

Residential Tenancy Branch