



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNECT, FFT

Introduction

This hearing was scheduled to deal with a tenant's application for monetary compensation payable where a landlord does not use the rental unit for the purpose stated on a Two Month Notice to End Tenancy for Landlord's Use of Property ("2 Month Notice") as provided under section 51(2) of the Act.

The tenant appeared and was affirmed. The tenant was ordered to not make an unofficial audio recording of this proceeding. The landlord did not appear.

Where a respondent does not appear at the hearing, it is upon the applicant to prove the respondent was served with the proceeding package and any evidence in a manner that complies with the Act. The requirement to serve a respondent the proceeding package is in accordance with sections 59 and 89 of the Act; the Rules of Procedure; and, in keeping with the principles of natural justice.

Since there was no appearance on part of the landlord, I proceeded to explore service of hearing materials upon the landlord.

The tenant testified that she printed out the proceeding package documents and placed them in the mailbox at the rental unit, even though the landlord did not move into the rental unit, because the tenant did not know the landlord's address of residence. The tenant acknowledged that she had not performed a title search of the property to determine the owner's mailing address. The tenant acknowledged that the 2 Month Notice provides a service address for a property management company but the tenant understands that when the tenancy ended the property manager ceased acting as the landlord's agent so the tenant did not name or serve the property manager.

Section 89 provides for the ways an Application for Dispute Resolution and other required documents [the “proceeding package”] must be served upon the respondent. A monetary claim must be served in accordance with section 89(1). Service requirements are further explained in Residential Tenancy Policy Guideline 12: *Service Provisions*.

Section 89(1) provides for the following permissible methods of service:

- (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

In light of section 89(1) the tenant was required to serve the landlord either: in person, by registered mail, in accordance with a Substituted Service Order [s. 89(1)(e)] or by email to an email address the landlord provided for purposes of being served [s. 89(1)(f)].

Placing documents in the mailbox is not one of the permissible methods of service under section 89(1) of the Act. Further, the rental unit is unlikely to be the landlord’s address of residence or the landlord’s place of carrying on business as a landlord having heard it was vacant and then advertised for rent. The tenant did not have a Substituted Service Order authorizing her to serve the landlord by placing documents in the mailbox at the rental unit. Accordingly, I find the tenant failed to sufficiently serve the landlord in a manner that complies with section 89(1) of the Act and I declined to further consider this application.

The tenant’s 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: January 04, 2022

Residential Tenancy Branch