



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FF

Introduction, Preliminary and Procedural Matters-

This hearing dealt with the tenants' application for dispute resolution seeking remedy under the Residential Tenancy Act (Act) for:

- an order cancelling the Two Month Notice to End Tenancy for Landlord's Use of Property (Notice) issued by the landlord, and
- to recover the cost of the filing fee.

The tenant attended the hearing; however, the landlord did not attend.

As the landlord failed to attend, service of the tenants' Application for Dispute Resolution, evidence, and Notice of Hearing (application package) was considered. The tenant stated she served the landlord with their application package by email. The tenant said that she only communicates with the landlord by text message and email, as the landlord refuses to provide her address to the tenants.

The tenant confirmed that the landlord had not provided or authorized their email address to be used as an address for service of documents.

The tenant also confirmed that they had not made an application for substituted service or that they used the address listed for the landlord on the Notice.

Analysis and Conclusion

Section 59(3) of the Act requires that a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it.

Section 89(1) of the Act requires that an application for dispute resolution 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 documents*];
- (f) by any other means of service provided for in the regulations.

Under section 43(2) of the Residential Tenancy Regulations, documents may be given to a person by emailing a copy to an email address provided as an address for service by that person.

I find the tenants submitted insufficient evidence that their application package was served to the landlord according to any of the requirements of section 89(1) of the Act and within three days of receiving the application package. I therefore dismiss the tenants' application, **with leave to reapply**, due to service issues as described above.

I make no findings on the merits of the matter. Leave to reapply is not an extension of any applicable limitation period.

As I have not considered the merits of the tenants' application, I dismiss their request to recovery the filing fee, 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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: April 21, 2022