



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, FFL

Introduction

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

- a monetary order of \$803.57 for damage to the rental unit, pursuant to section 67;
- authorization to retain the tenant's security deposit, pursuant to section 38; and
- authorization to recover the \$100.00 filing fee paid for this application, pursuant to section 72.

The two tenants did not attend this hearing, which lasted approximately 12 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

This hearing began at 1:30 p.m. and ended at 1:42 p.m. I monitored the teleconference line throughout this hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only people who called into this teleconference.

The landlord confirmed her name and spelling. She said that she owns the rental unit and confirmed the rental unit address. She provided her email address for me to send this decision to her after the hearing.

At the outset of this hearing, I informed the landlord that recording of this hearing was not permitted by anyone, as per Rule 6.11 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure*. The landlord affirmed, under oath, that she would not record this hearing.

I explained the hearing process to the landlord. She had an opportunity to ask questions. She did not make any adjournment or accommodation requests.

Pursuant to section 64(3)(c) of the *Act*, I amend the landlord’s application to remove the landlord’s name, which she duplicated twice. I find no prejudice to either party in making this amendment.

Preliminary Issue – Service of Landlord’s Application

The landlord testified that the two tenants were served with two copies of the landlord’s application for dispute resolution hearing package, both by way of registered mail on September 27, 2021. The landlord provided two Canada Post receipts and confirmed both tracking numbers verbally during this hearing.

The landlord said that she sent the above documents to a forwarding address provided by the two tenants on September 16, 2021, in a registered mail letter. She explained that she had the forwarding address in front of her during this hearing. I informed the landlord that I did not receive a copy of the forwarding address letter with her online RTB application evidence.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows (my emphasis added):

- 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 documents].

Residential Tenancy Policy Guideline 12 states the following, in part (my emphasis added):

*Registered mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a **named person** is available.*

Proof of service by Registered Mail should include the original Canada Post Registered Mail receipt containing the date of service, the address of service, and that the address of service was the person's residence at the time of service, or the landlord's place of conducting business as a landlord at the time of service as well as a copy of the printed tracking report.

I find that the landlord did not serve the two tenants with the landlord's application, as required by section 89 of the *Act* and Residential Tenancy Policy Guideline 12.

I find that the landlord failed to provide documentary proof of a residential address or a forwarding address provided by the two tenants and when that address was given to the landlord. The landlord claimed that she had the letter with a forwarding address in front of her during this hearing. However, the landlord did not provide a copy as evidence for this hearing. The landlord had ample time from filing this application on September 17, 2021, to this hearing date of April 4, 2022, a period of over 6.5 months, to provide the above information. The two tenants did not attend this hearing to confirm service.

I notified the landlord that her application was dismissed with leave to reapply, except for the filing fee. I informed her that she could file a new application and pay a new filing fee, if she wants to pursue this matter in the future. She confirmed her understanding of same.

Conclusion

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the landlord'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: April 04, 2022

Residential Tenancy Branch