



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GARDEN DRIVE HOMES DEVELOPMENT
LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL-4M

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the *Act*) for cancellation of the Four Month Notice to End Tenancy for Demolition, or Conversion of Rental Unit, pursuant to section 49 of the *Act*.

The landlord did not attend this hearing, although I left the teleconference hearing connection open until 11:15 a.m. in order to enable the landlord to call into this teleconference hearing scheduled for 11:00 a.m. The tenants attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. 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 tenants and I were the only ones who had called into this teleconference.

The tenants confirmed their email address for service of this decision.

The tenants testified that they served the landlord with their application for dispute resolution via email but could not recall on what date. The serving email was not entered into evidence. The tenants testified that they did not know if they had a written agreement to serve via email. No written service agreement was entered into evidence.

Section 89 of the *Act* sets out the approved methods of service for applications for dispute resolution as follows:

89 (1)An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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*];
- (f) by any other means of service provided for in the regulations.

Section 43(2) of the Regulation to the Residential Tenancy Act states:

For the purposes of section 89 (1) (f) [*special rules for certain documents*] of the Act, the documents described in section 89 (1) of the Act may be given to a person by emailing a copy to an email address provided as an address for service by the person.

Residential Tenancy Guideline #12 states:

To serve documents by email, the party being served must have provided an email address specifically for the purposes of being served documents. If there is any doubt about whether an email address has been given for the purposes of giving or serving documents, an alternate form of service should be used, or an order for substituted service obtained.

I find that the tenants have not proved that they were authorized to serve the landlord with their application for dispute resolution via email because no email service agreement was entered into evidence. I find that the tenants have not proved that the landlord was served with their application for dispute resolution via email because the serving email was not entered into evidence. Pursuant to my above findings, the tenants' application is dismissed, with leave to reapply, for failure to prove service in accordance with section 89 of the Act.

Conclusion

The tenants' application for dispute resolution 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: May 24, 2022

Residential Tenancy Branch