



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OT, FFT

Introduction

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

- other relief, identified by the tenant as permission to sell a mobile home without having to make expensive upgrades, as per the Rules of the Park.

The landlord did not attend this hearing, which lasted approximately 15 minutes. The tenant 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 11:00 a.m. and ended at 11:15 a.m. I monitored the teleconference line throughout his 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 tenant and I were the only people who called into this teleconference.

The tenant confirmed her name and spelling. She provided her email address for me to send this decision to her after the hearing.

Rule 6.11 of the Residential Tenancy Branch *Rules of Procedure* does not permit recording of this hearing by any party. At the outset of this hearing, the tenant affirmed, under oath, that she would not record this hearing.

I explained the hearing process to the tenant. I informed her that I could not provide legal advice to her. She had an opportunity to ask questions, which I answered. She did not make any adjournment or accommodation requests.

Preliminary Issue – Service of Tenant’s Application

The tenant stated that the landlord was served with the tenant’s application for dispute resolution and notice of hearing by way of registered mail on March 30, 2022. She said that she could not find the Canada Post receipt or verbally provide a Canada Post tracking number during this hearing. She claimed that she sent in all of her evidence for this hearing.

The tenant stated that she served the landlord with the tenant’s evidence package on April 21, 2022, by way of registered mail. She provided a Canada Post tracking number verbally during this hearing, to confirm service.

Section 82(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows (my emphasis added):

82(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 64(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.***

Accordingly, I find that the tenant did not serve the landlord with the tenant's application for dispute resolution or notice of hearing, as required by section 82 of the *Act* and Rule 3.1 of the *RTB Rules*. The landlord did not appear at his hearing to confirm service.

During this hearing, I provided the tenant with extra and ample time of 15 minutes to search for the Canada Post receipt and verbally provide the tracking number, to confirm service of her application by registered mail on March 30, 2022, but she was unable to do so. Without the tenant's affirmed testimony during this hearing, to confirm any of her written evidence on file, I cannot confirm service of the tenant's application to the landlord.

The tenant asked if I received written evidence from the landlord, which she said was sent to an incorrect RTB email. The tenant stated that the landlord agreed to reimburse her for the \$100.00 filing fee that she paid for this application. She claimed that she did not settle her application with the landlord because she did not trust the landlord. I informed her that I did not receive any written evidence from the landlord on the online RTB system.

I notified the tenant that her application was dismissed with leave to reapply, except for the \$100.00 filing fee. I notified her that she could file a new application and pay a new filing fee, if she wanted to pursue this matter in the future.

After I verbally provided my decision to the tenant during this hearing, she became upset and argumentative. She repeatedly argued with me because she disagreed with my decision. She repeatedly asked me to explain the reasons for my decision. During this hearing, I repeatedly explained my reasons for dismissing the tenant's application to the tenant, but she repeatedly argued with my reasons.

After 15 minutes in this hearing, I informed the tenant that my decision was made, I could not continue to repeat the same reasons for my decision, and I could not argue with the tenant about my decision. I thanked the tenant for attending the hearing and closed the hearing.

Conclusion

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

The remainder of 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 *Manufactured Home Park Tenancy Act*.

Dated: May 10, 2022

Residential Tenancy Branch