



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC, FFT

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on October 06, 2021 (the “Application”). The Tenant applied for compensation from the Landlord related to a Notice to End Tenancy for Landlord's Use of Property and reimbursement for the filing fee.

The Tenant appeared at the hearing. Nobody appeared at the hearing for the Landlord. I explained the hearing process to the Tenant. I told the Tenant they are not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). The Tenant provided affirmed testimony.

The Tenant submitted evidence prior to the hearing. The Landlord did not submit evidence. I addressed service of the hearing package and Tenant’s evidence.

The Tenant testified that the hearing package and their evidence were sent to the Landlord by registered mail and provided Tracking Number 175. The Tenant testified that they sent the package to the Landlord at an address on the Title Search for the rental unit.

I looked Tracking Number 175 up on the Canada Post website which shows the package was sent October 15, 2021 and could not be delivered.

The *Residential Tenancy Act* (the “*Act*”) requires hearing packages to be served in specific ways as set out at section 89(1) as follows:

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;** (emphasis added)
- (d) if the person is a 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.

I am not satisfied based on the evidence provided that the Tenant sent the hearing package to the Landlord at the Landlord’s residence or a place where the Landlord carries on business as a landlord. There is no evidence before me to support that the address on the Title Search for the rental unit is the Landlord’s residence or place of business. In the circumstances, I am not satisfied the Landlord was served with the hearing package for this matter in accordance with section 89(1) of the *Act*. Given this, the Landlord is not deemed to have received the hearing package pursuant to section 90 of the *Act*. Further, the Canada Post website information shows the hearing package was not delivered to the Landlord. As well, the Landlord did not appear at the hearing or submit evidence for the hearing. In the circumstances, I am not satisfied the Landlord was served as required and am not satisfied the Landlord was aware of the hearing. The Application is therefore dismissed **with leave** to re-apply in relation to the request for compensation related to a Notice to End Tenancy for Landlord's Use of Property. However, the request for reimbursement for the filing fee is dismissed **without** leave to re-apply.

Conclusion

The Application is dismissed **with leave** to re-apply in relation to the request for compensation related to a Notice to End Tenancy for Landlord's Use of Property. The request for reimbursement for the filing fee is dismissed **without** leave to re-apply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: May 25, 2022

Residential Tenancy Branch