



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CASCADIA APARTMENT RENTALS
LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S, MNDCL-S, FFL

Introduction

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

- a monetary order of \$2,175.00 for unpaid rent and for compensation under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, 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 tenant did not attend this hearing, which lasted approximately 14 minutes. The landlord's agent 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 1:44 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's agent and I were the only people who called into this teleconference, aside from the person noted below.

Another landlord MM called into this hearing at 1:30 p.m. mistakenly, claiming that he used the wrong access code for a previous cancelled hearing on May 13, 2022. I looked up the file number that he provided, on the online RTB website, and provided him with the correct access code to call into a different hearing today at 1:30 p.m. on May 20, 2022. He was excluded from this hearing at 1:35 p.m., he did not return to testify, and he did not hear any testimony or evidence from the landlord's agent during this hearing.

The landlord's agent confirmed her name and spelling. She said that she is a building manager for the landlord company ("landlord") named in this application. She stated that she had permission to speak on the landlord's behalf at this hearing. She confirmed the landlord's name, stated that the landlord owns the rental unit, and provided the rental unit address. She provided her email address for me to send a copy of this decision to the landlord after the hearing.

Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* does not permit recording of this hearing by any party. At the outset of this hearing, the landlord's agent affirmed, under oath, that she would not record this hearing.

I explained the hearing process to the landlord's agent. She had an opportunity to ask questions. She did not make any adjournment or accommodation requests. She confirmed that she was ready to proceed with this hearing.

Preliminary Issue – Service of Landlord's Application

The landlord's agent stated that the previous manager who filed the landlord's application was no longer working for the landlord. She said that this was "not her tenant," since she did not file this application.

The landlord's agent testified that the tenant was served with a copy of the landlord's application for dispute resolution hearing package, by way of registered mail on October 15, 2021. The landlord provided a Canada Post receipt with this application. The landlord's agent confirmed the Canada Post tracking number verbally during this hearing.

The landlord's agent stated that the landlord's application was sent to an address in a different province, provided to the landlord by the tenant in an application for tenancy on September 10, 2021. She claimed that this was not the tenant's residential address or a forwarding address provided by the tenant, at the time that the landlord's application was served on October 15, 2021.

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 tenant with the landlord's application, as required by section 89 of the Act and Residential Tenancy Policy Guideline 12.

The landlord did not provide a copy of the Canada Post tracking report, to confirm service of the landlord's application on October 15, 2021, as per Residential Tenancy Policy Guideline 12 above.

I find that the landlord failed to provide sufficient documentary or testimonial evidence of the tenant's residential address, or a forwarding address provided by the tenant, at the time that the landlord's application was sent by registered mail on October 15, 2021. The landlord provided an application for tenancy, indicating the tenant's previous address in a different province, prior to September 10, 2021. The tenant did not attend this hearing to confirm service of the landlord's application.

I notified the landlord's agent that the landlord's application was dismissed with leave to reapply, except for the filing fee. I informed her that the landlord could file a new application and pay a new filing fee, if the landlord 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: May 20, 2022

Residential Tenancy Branch