



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNSDS-DR, FFT**

Introduction

On November 18, 2021, an Adjudicator appointed pursuant to the Residential Tenancy Act (the Act) adjourned the landlord's application for dispute resolution to a participatory hearing. She did so on the basis of an ex parte hearing using the Residential Tenancy Branch's direct request process. The adjudicator adjourned the direct request for the following reasons:

I find that the rental address on the Application for Dispute Resolution contains a unit designation of "coach house" that does not appear on the tenancy agreement. I find that this discrepancy in the rental address raises a question that can only be addressed through a participatory hearing.

I have been delegated authority under the Act to consider the tenant's application for:

- An order for the return of a security deposit that the landlord is holding without cause, pursuant to section 38; and
- Authorization to recover the filing fee from the other party pursuant to section 72.

The tenant attended at the date and time set for the hearing of this matter with his spouse, CZ. The landlord did not attend this hearing, although I left the teleconference hearing connection open until 1:50 p.m. in order to enable the landlord to call into this teleconference hearing scheduled for 1:30 p.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I also confirmed from the teleconference system that the tenant and I were the only ones who had called into this teleconference.

As only the tenant attended the hearing, I asked the tenant to confirm that he had served the landlord with the Notice of Dispute Resolution Proceeding for this hearing.

The tenant testified that he had served the landlord at her residence with the notice of this hearing, the interim decision and other required documents by Canada Post parcel post on November 19, 2021. The tenant supplied a tracking number for the mailing which is recorded on the cover page of this decision. The tenant also provided in his evidence a copy of the receipt for the mailing which indicates the parcel weighed .057 kg and that the tenant was not charged a delivery confirmation surcharge.

During the hearing, with the tenant's consent, I looked up the tracking number for the mailing of the parcel and downloaded the delivery confirmation that indicates it was delivered on November 22, 2021. The delivery confirmation indicates that the recipient's signature is unavailable or not requested.

Preliminary Issue – service of the Notice of Dispute Resolution Proceedings

A Notice of Dispute Resolution Proceedings must be served in accordance with section 89 of the Act. Section 89(1)(c) allows a tenant to serve an application for dispute resolution to a landlord 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.

The Residential Tenancy Branch has developed policy guidelines to assist the public in understanding issues that may arise in dispute resolutions. PG-12 deals with Service Provisions.

PG-12 states under Part 3:

Registered Mail

- *Where a tenant is serving a landlord by Registered Mail, the address for service must be where the landlord resides at the time of mailing or the address at which the landlord carries on business as a landlord. See "Service of documents on an incorporated company or society" in section 6 below or "Serving documents at the address at which the landlord carries on business as a landlord" in section 7 below.*
- *Where a landlord is serving a tenant by Registered Mail, the address for service must be where the tenant resides at the time of mailing, or the forwarding address provided by the tenant.*

Registered Mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available. This includes Express post, if the signature option is used. Parties using Registered Mail or Express Post should obtain a copy of the proof of delivery from Canada Post and submit that document as proof of service. This can be obtained from Canada Post's website. A

screen shot or picture of the information is sufficient.

The receipt for the parcel post mailing provided as evidence by the tenant indicates the tenant did not pay the extra fee for the signature option. The delivery confirmation indicates that the signature is unavailable or not requested. Based on these facts, I find the Notice of Dispute Resolution Proceedings was not served in accordance with section 89 of the Act as the tenant chose “parcel post” as the method of delivery and did not choose the (paid) option of seeking signature service. As such, I find the landlord was not sufficiently notified of the hearing and I dismiss this application with leave to reapply.

The tenant’s application was not successful and as such, the filing fee shall not be recovered.

Conclusion

The application is dismissed with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

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: June 20, 2022

Residential Tenancy Branch