



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNL, OLC, FFT

Introduction

This hearing was convened in response to the Tenants' Application for Dispute Resolution, in which the Tenants applied to set aside a Two Month Notice to End Tenancy for Landlord's Use; for an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)* or the tenancy agreement; and to recover the fee for filing this Application for Dispute Resolution.

It is apparent from information in the Application for Dispute Resolution and the One Month Notice to End Tenancy for Cause that was submitted in evidence, that the Tenant is actually applying to cancel a One Month Notice to End Tenancy for Cause. It is also apparent that the application for an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)* or the tenancy agreement is simply an application to cancel the One Month Notice to End Tenancy for Cause.

Issue(s) to be Decided

Should the Notice to End Tenancy for Cause, served pursuant to section 47 of the *Residential Tenancy Act (Act)*, be set aside?

Background and Evidence

The Tenant stated that on August 11, 2022 the Dispute Resolution Package was sent to the Landlord, via registered mail.

The Tenant stated that she did not provide the Residential Tenancy Branch with a copy of the Canada Post receipt; that she has lost the Canada Post receipt; and she is unable to provide a tracking number for the package that was mailed.

Analysis

Rule 3.2 of the Residential Tenancy Branch Rules of Procedure requires an Applicant to serve the Respondent with the Dispute Resolution Procedure.

Section 89 of the *Residential Tenancy Act (Act)* specifies how the Dispute Resolution Package must be served to the Respondent.

Rule 3.5 of the Residential Tenancy Branch Rules of Procedure requires the Applicant to establish that the Respondent has been served with the Dispute Resolution Package to the Respondent in accordance with section 89 of the *Act*.

I find that the Tenant has submitted insufficient evidence to establish that the Dispute Resolution Package was served to the Landlord by registered mail, which is a method of service permitted by sections 89(1)(c) and 89(2)(b) of the *Act*. In reaching this conclusion I was influenced, in part, by the fact the Tenant did not provide a copy of the Canada Post receipt to corroborate the Tenant's testimony that the package was sent by registered mail. In reaching this conclusion I was further influenced by the Tenant's inability to cite a Canada Post tracking number to corroborate her testimony.

As the Tenants have submitted insufficient evidence to establish the Dispute Resolution Package was served to the Landlord, I am unable to proceed with the hearing in the absence of the Landlord. The Application for Dispute Resolution is therefore dismissed, with leave to reapply.

Conclusion

The Application for Dispute Resolution is dismissed, with leave to reapply. The Tenants retain the right to file another Application for Dispute Resolution in regard to these issues.

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: October 11, 2022

Residential Tenancy Branch