



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RR, RP, PSF, LRE, LAT, OLC, FFT

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The tenants applied for:

- an order to reduce the rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order requiring the landlord to carry out repairs, pursuant to section 32;
- an order requiring the landlord to provide services or facilities as required by the tenancy agreement or the Act, pursuant to section 62;
- an order to restrict or suspend the landlord's right of entry, under section 70;
- an order of authorization to change the lock, pursuant to sections 31 and 70;
- an order for the landlord to comply with the Act, the Residential Tenancy Regulation and/or tenancy agreement, pursuant to section 62; and
- an authorization to recover the filing fee for this application, under section 72.

I left the teleconference connection open until 11:10 A.M. to enable the respondent to call into this teleconference hearing scheduled for 11:00 A.M. The respondent did not attend the hearing. Applicant MK (the tenant) attended and represented applicant SG. The tenant was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. 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 ones who had called into this teleconference.

At the outset of the hearing the attending party was clearly informed of the Rules of Procedure, including Rule 6.10 about interruptions and inappropriate behaviour, and Rule 6.11, which prohibits the recording of a dispute resolution hearing. The attending party confirmed he understood the Rules of Procedure.

Per section 95(3) of the Act, the parties may be fined up to \$5,000.00 if they record this hearing: "A person who contravenes or fails to comply with a decision or an order made

by the director commits an offence and is liable on conviction to a fine of not more than \$5,000.00.”

The tenant attached the notice of hearing to the respondent’s front door on or before June 30, 2022.

Section 89(1) of the Act states:

An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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].

(emphasis added)

Residential Tenancy Branch Policy Guideline 12 states:

There are only three methods of service that may be used for these matters. These are:

i. Personal service

o Where a tenant is personally serving a landlord, the tenant must serve a document by leaving a copy of it with the landlord or an agent of the landlord.

o Where a landlord is personally serving a tenant, the landlord must serve by leaving a copy with the tenant. In cases where there are multiple tenants, the landlord must serve a copy to each co-tenant separately.

This requires physically handing a copy of the document to the person being served. If the person declines to take the document, it may be left near the person so long as the person serving informs the person being served of the nature of the document being left near them.

ii. Registered Mail

o 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.

o 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.

iii. A Residential Tenancy Branch Order Regarding Service

o See “Orders for substituted service” in section 13 below and “Proof of service” in section 14 below.

Attaching the notice of hearing to the landlord’s door is not a permitted method of service for the tenant’s application for dispute resolution. The landlord did not attend the hearing to confirm receipt of the tenants’ application.

Accordingly, I find that the tenants failed to prove service in accordance with Section 89(1) of the Act and Policy Guideline 12. As such, the tenants’ application is dismissed with leave to reapply.

The tenant must bear the cost of the filing fee, as the tenant was not successful.

Conclusion

The tenant’s application is dismissed with leave to reapply. Leave to reapply is not an extension of any applicable timeline.

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: November 01, 2022

Residential Tenancy Branch