



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PG STUDENT HOUSING LTD. C/O DOMUS
INC. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL, MNDCL-S, FFL

Introduction

This hearing was scheduled to convene at 1:30 p.m. on March 2, 2023 by way of conference call concerning an application made by the landlord seeking a monetary order for unpaid rent or utilities; a monetary order for money owed or compensation for damage or loss under the *Residential Tenancy Act*, regulation or tenancy agreement; an order permitting the landlord to keep all or part of the security deposit or pet damage deposit; and to recover the filing fee from the tenant for the cost of the application.

The landlord was represented at the hearing by an agent. However, the line remained open while the telephone system was monitored for in excess of 10 minutes and no one for the tenant joined the call.

The landlord's agent submitted that the tenant was served with the Notice of Dispute Resolution Proceeding and all other documents by email on September 9, 2022, and has provided a copy of an "Approval Agreement," which states:

"Email / I understand that the Landlord c/o (DI) will communicate with me via email for all tenant updates and will agree to check my email often to keep updated on my living arrangements." It is signed by the tenant on August 26, 2021.

The *Residential Tenancy Act* states that a Notice of Dispute Resolution Proceeding may be served on a respondent 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*];
- (f) by any other means of service provided for in the regulations.

The regulations provide that:

43 (2) For the purposes of section 89 (1) (f) [*special rules for certain documents*] of the Act, the documents described in section 89 (1) of the Act may be given to a person by emailing a copy to an email address provided as an address for service by the person.

(3) For the purposes of section 89 (2) (f) of the Act, the documents described in section 89 (2) of the Act may be given to a tenant by emailing a copy to an email address provided as an address for service by the tenant.

In this case, the Approval Agreement specifies email during the tenancy, not an authorization for service of legal documents by email. Therefore, I am not satisfied that the tenant has authorized service of legal documents by email. The landlord may apply for a substitutional service order, and I dismiss the landlord's application with leave to reapply.

I have made no findings of fact or law with respect to the merits of the landlord's claim.

Conclusion

For the reasons set out above, the landlord's application is hereby 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: March 02, 2023

Residential Tenancy Branch