



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNDCT, MNETC, FFT

Introduction

The Tenants seek the following relief under the *Residential Tenancy Act* (the “Act”):

- a monetary order pursuant to s. 67 for compensation or other money owed;
- an order pursuant to s. 51(2) for compensation equivalent to 12 times the monthly rent payable under the tenancy agreement; and
- return of the filing fee pursuant to s. 72.

B.L. and A.F. appeared as the Tenants. The Landlord did not attend the hearing, nor did someone attend on their behalf.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

Preliminary Issue – Service of the Application

The Tenants advise that they sent the Notice of Dispute Resolution and their evidence to the Landlord via Xpresspost sent on October 19, 2022. I was not provided with a tracking receipt, though the Tenants did read out a tracking number, which is noted on the cover page of this decision. The Tenants further confirm the mail was sent to the Landlord’s address for service as listed within a Two-Month Notice to End Tenancy in evidence.

Section 89(1) of the *Act*, which establishes the methods of service permitted for this application, permits service via registered mail. Policy Guideline #12 provides guidance

on the service provisions of the *Act* and states the following with respect to service via registered mail:

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.

(Underline Added)

I enquired with the Tenants whether they had requested the signature option. The Tenants were unable to confirm they had done so. Review of the tracking number provided shows the package was delivered on October 19, 2022, though it does not show it had been signed for by the recipient, who the recipient was, and, curiously, mentions that the item arrived in Canada on October 13, 2022 and was released by customs on October 17, 2022.

I am unable to confirm the Tenants' application was served in accordance with the *Act*. The requirement to serve registered mail is to ensure that an individual recipient has, in fact, received the application. Respondents require notice of a claim made against them and the Residential Tenancy Branch must ensure they were, in fact, served. It is for this reason that regular mail, which is permitted under s. 88, is not permitted under s. 89 as regular mail does not permit confirmation an individual received a document by signing for it.

As the Tenants have failed to demonstrate service of their application, I find it would be procedurally unfair to decide the matter. Accordingly, I dismiss their application with leave to reapply, except for their claim for their filing fee, which is dismissed without leave to reapply. The Tenants shall bear the cost of their application and their failure to demonstrate its service on the Landlord.

Should the Tenants choose to reapply, I encourage them to review the relevant provisions of the *Act* and Policy Guideline #12 to familiarise themselves with the permitted service provisions.

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 15, 2023

Residential Tenancy Branch