



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for the cost of emergency repairs to the rental unit pursuant to section 33;
- a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- a monetary order for compensation related to a Notice to End Tenancy for Landlord's Use of Property pursuant to section 51;
- authorization to obtain a return of all or a portion of the security deposit, including double the amount, pursuant to section 38;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. The landlord did not attend the hearing.

Preliminary Issue: Service of Tenant's Application

The tenant testified that on February 10, 2023, he sent a copy of the Application for Dispute Resolution and Notice of Hearing to the landlord by Registered Mail. The tenant provided a few different registered mail tracking numbers as proof of service. A search of the tracking history shows that the packages were returned to the sender and not delivered to the respondent. The tenant testified that that packages were sent to the landlord's address of service as per the tenancy agreement; however, the address for service in the tenancy agreement is blank. The tenant then stated that the landlord operates a business in town, which can be found by a simple google search, and that was the address used for service. The tenant testified the packages were sent to unit number 108; however, a google search of the business referred to by the tenant in the hearing indicates the unit number for the business is #109.

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

89(1) An application for dispute resolution,...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 document]...*
- (f) by any other means of service provided for in the regulations.*

In addition to the above methods of service, section 43 of the *Residential Tenancy Regulation* allows for service to an email address provided as an address for service by the person.

As the tenant appears to have sent the registered mail to an incorrect unit number, was not able to provide a registered mail receipt or a tracking number, I am not satisfied the landlord has been served with the tenant's application for dispute resolution in a manner required under section 89 of the *Act*.

The tenant's application is dismissed with leave to reapply. The tenant may want to provide additional evidence to show that the landlord in fact operates the business at the address being used for service or any other evidence the tenant shows to demonstrate that the landlord was using that address as an address for service. The tenant was also cautioned that his application was lacking evidence of a forwarding address being provided to the landlord for the return of the security deposit as well as evidence to prove any monetary losses being claimed.

Conclusion

I dismiss the tenant's application 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: May 23, 2023

Residential Tenancy Branch