

DECISION

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

- a Monetary Order for damage to the rental unit or common areas under sections 32 and 67 of the Act
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the Monetary Order requested under section 38 of the Act
- authorization to recover the filing fee for this application from the tenant under section 72 of the Act

Service of Notice of Dispute Resolution Proceeding (Proceeding Package) and evidence.

The hearing was scheduled for 1:30PM on August 29, 2023 as a teleconference hearing. Only the Landlord appeared at the hearing. No one called in for the Tenant. The conference call line remained open and was monitored for 19 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Applicant and I were the only persons who had called into this teleconference.

At the start of the hearing, the Landlord stated that he sent the Application and evidence to the Tenant by mail on November 25, 2022. The Landlord provided a receipt in support. I note that the receipt provided by the Landlord does not indicate that the mailing was sent by Registered Mail with Tracking. Instead, it appears as though the Landlord sent the package to the Tenant by regular mail.

Special rules for certain documents

89 (1)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*];
- (f)by any other means of service provided for in the regulations.

I find that the Landlord has not served the Application to the Tenant using an approved form of service outlined in Section 89 of the Act. As no one attended the hearing for the Tenant, combined with the fact that the Landlord has not properly served his Application to the Tenant, I dismiss the Landlord's Application WITH leave to reapply. Leave to reapply does not extend any time limits.

Conclusion

The Landlord did not serve the Tenant in accordance with the Act. The Landlord's Application is 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: August 29, 2023

Residential Tenancy Branch