



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNDCT, FFT

Introduction

This hearing was scheduled to convene at 11:00 a.m. on October 31, 2024 concerning an application made by the tenant seeking a monetary order from the landlord for money owed or compensation for damage or loss under the *Residential Tenancy Act*, regulation or tenancy agreement; and to recover the filing fee from the landlord for the cost of the application.

The tenant attended the hearing, provided evidentiary material in advance of the hearing, and gave submissions with respect to service of documents to the landlord. However, the line remained open while the telephone system was monitored for in excess of 10 minutes and no one for the landlord joined the call.

The tenant has provided a Proof of Service document indicating that the landlord was served with the Notice of Dispute Resolution Proceeding by regular mail on August 30, 2024 to the address of the rental unit. The tenant submitted that the mail was returned to the sender, and that the landlord does not reside at the rental unit.

The tenant has also provided evidentiary material of serving the landlord by email, however there is no indication that the landlord agreed to service of documents by email in writing previously.

The *Residential Tenancy Act* and the regulations specify how an Application for Dispute Resolution and Notice of Dispute Resolution Proceeding can be served on a respondent:

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- (e) [Repealed 2023-47-98.]
- (f) by any other means of service provided for in the regulations.

The regulations state as follows:

43 (1) For the purposes of section 88 (j) [*how to give or serve records generally*] of the Act, the records described in section 88 of the Act may be given to or served on a person by emailing a copy to an email address provided as an address for service by the person.

(2) For the purposes of section 89 (1) (f) [*special rules for certain records*] of the Act, the records 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 records 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.

(4) For the purposes of section 89 (3) (d) and (e) of the Act, the records described in section 89 (3) of the Act may be given to a person by

- (a) attaching a copy to a door or other conspicuous place at the address at which the person resides or, if the person is a landlord, at the address at which the person carries on business as a landlord, or

- (b) emailing a copy to

- (i) an email address provided as an address for service by the person, or

- (ii) if no email address for service was provided by the person, an email address used in the previous 12 months by the person to

communicate with the government, or the person's landlord or tenant, as applicable.

In other words, the tenant would be permitted to serve the landlord by email if the landlord had previously agreed to service by that method in writing. Alternatively, the tenant may apply for a Substitutional Service order, with evidence that serving the documents by email would reach the landlord at that email address.

Since the tenant has not served the landlord in accordance with the *Act*, I dismiss the tenant's application in its entirety with leave to reapply.

Conclusion

For the reasons set out above, the tenant'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: October 31, 2024

Residential Tenancy Branch