

DECISION

Dispute Codes MNRT, RR, RP, OLC, FFT

Introduction

This hearing was scheduled to convene at 1:00 p.m. on December 3, 2024 concerning an application made by the tenant seeking a monetary order as against the landlord for the cost of emergency repairs; an order reducing rent for repairs, services or facilities agreed upon but not provided; an order that the landlord make repairs to the rental unit or property; an order that the landlord comply with 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, gave affirmed testimony, and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the landlord joined the call.

The tenant has provided a Proof of Service document indicating that the Notice of Dispute Resolution Proceeding was served in person on October 12, 2024. The tenant indicated that it was handed to a person at the landlord's front desk, who said she would put it on the Property Manager's desk. The tenant also provided the landlord with the tenant's evidence by email on November 12 and November 17, 2024.

The *Residential Tenancy Act* states that the Notice of Dispute Resolution Proceeding can be served by handing it to an agent of the landlord. The *Act* also specifies that a landlord includes the following:

Definitions

1 In this Act:

"landlord", in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,

- (i) permits occupation of the rental unit under a tenancy agreement, or
- (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;
- (b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);
- (c) a person, other than a tenant occupying the rental unit, who
 - (i) is entitled to possession of the rental unit, and
 - (ii) exercises any of the rights of a landlord under a tenancy agreement or this Act in relation to the rental unit;
- (d) a former landlord, when the context requires this;

I am satisfied that the front desk person exercises rights of the landlord, and was permitted to accept the Notice of Dispute Resolution Proceeding, and I find that the landlord has been served in accordance with the *Residential Tenancy Act*.

With respect to the tenant's evidentiary material, the *Act* specifies how legal documents are served:

88 All records, other than those referred to in section 89 [*special rules for certain records*], that are required or permitted under this Act to be given to or served on a person must be given or served 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 ordinary mail or 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 ordinary mail or registered mail to a forwarding address provided by the tenant;
- (e) by leaving a copy at the person's residence with an adult who apparently resides with the person;
- (f) by leaving a copy in a mailbox or mail slot for the address at which the person resides or, if the person is a landlord, for the address at which the person carries on business as a landlord;

(g) by 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;

(h) by transmitting a copy to a fax number provided as an address for service by the person to be served;

(i) [Repealed 2023-47-97.]

(j) by any other means of service provided for in the regulations.

The regulations permit service by email if the landlord had provided an email address for service in the tenancy agreement or other documentation previously. I have reviewed the tenancy agreement, and the address for service of the landlord is not an email address, but a street address and a mailing address. I have also reviewed other evidence provided by the tenant, and it is clear that the parties have communicated by email and by text messaging. There is nothing wrong with that, however it does not satisfy the requirements of the *Act* or the regulations with respect to service of documents. Therefore, I am not satisfied that the tenant has provided the landlord with the tenant's evidence in accordance with the law.

Any evidence that a party wishes to rely on must be provided to the other party, even if they already have a copy, because it is important for all parties to know what is before me. Since the tenant has not served the landlord with the tenant's evidence, I cannot consider it. The landlord has not provided any evidence. In the absence of any evidence, I find that the tenant's application should be dismissed, with leave to reapply, and I so order.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed in its entirety, 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: December 08, 2024

Residential Tenancy Branch