



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (“Act”), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for:

- an Order of Possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two tenants did not attend this hearing, which lasted approximately 16 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue – Direct Request Proceeding and Service

This hearing was originally scheduled as a direct request proceeding, which is a non-participatory hearing. An “interim decision,” dated January 4, 2019, was issued by an Adjudicator for the direct request proceeding. The interim decision adjourned the direct request proceeding to this participatory hearing.

The landlord was required to serve the tenants with a copy of the interim decision, the notice of reconvened hearing and all other required documents, within three days of receiving it, as outlined in the interim decision itself.

The landlord said that he received the interim decision on January 7, 2019. He stated that he served the documents to the tenants on January 8, 2019, by registered mail. He provided two Canada Post tracking numbers verbally during the hearing.

Residential Tenancy Policy Guideline 12 states the following, in part (emphasis added):

*Registered mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a **named person** is available.*

*Proof of service by Registered Mail should include the original Canada Post Registered Mail **receipt containing the date of service, the address of service, and that the address of service was the person's residence at the time of service, or the landlord's place of conducting business as a landlord** at the time of service as well as a **copy of the printed tracking report**.*

During the hearing, when I checked the Canada Post website using the two tracking numbers that the landlord provided, it indicated “duplicate PIN” and no further information for one. For the other, it indicated “Item cannot be delivered; more details to be provided” and then “Customer addressing error found; attempting to correct. Possible delay” and then “Item on hold at a secure facility; contact Customer Service.” Both items were not delivered, no signatures were recorded, and no items were unclaimed or refused for service.

Accordingly, I find that the landlord did not serve the tenants with the above required documents because there were errors in the address and no delivery of the mail, so service cannot be deemed. Therefore, delivery to named people could not be confirmed as per Residential Tenancy Policy Guideline 12.

I find that the tenants were not served with the interim decision and notice of reconvened hearing as per section 89 of the *Act*. I notified the landlord that his application was dismissed with leave to reapply, except for the filing fee. I informed him that he would be required to file a new application, pay another filing fee and provide proof of service at the next hearing, if he chooses to pursue this matter further.

Conclusion

The landlord’s application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of 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: February 12, 2019

Residential Tenancy Branch