



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes AS

Introduction

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

- an order allowing the tenant to assign or sublet because the landlords' permission has been unreasonably withheld, pursuant to section 65.

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

The hearing began at 9:30 a.m. with only me present. The tenant called in late at 9:34 a.m., stating that he had problems calling in with the access code. The hearing ended at 9:46 a.m.

The tenant testified that he served the landlords with two separate copies of the tenant's application for dispute resolution hearing package on December 6, 2019 and then he corrected it to December 10, 2019. The tenant was looking up the Canada Post receipts and tracking numbers during the hearing. The tenant confirmed two Canada Post tracking numbers verbally during the hearing.

When I asked the tenant whether the documents were delivered to the landlords, he looked up the information and claimed that it was done on December 13, 2019 and then December 16, 2019. The tenant provided a Canada Post receipt, two tracking numbers and two tracking reports with his application but the receipts did not indicate the dates of service.

I looked up the two Canada Post tracking numbers provided by the tenant on the Canada Post tracking website. They indicated that the documents were sent out on December 13, 2019, not December 6 or 10, as claimed by the tenant. They also indicated that the documents were delivered on December 16, 2019, not December 13, as initially claimed by the tenant.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows (my emphasis added):

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 documents].*

Residential Tenancy Policy Guideline 12 states the following, in part (my 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.***

Accordingly, I find that the tenant did not properly serve the landlords with the tenant's application, as required by section 89 of the *Act* and Residential Tenancy Policy Guideline 12. The tenant provided the wrong service date of December 10, 2019, rather than the correct date of December 13, 2019. The tenant's Canada Post receipts and tracking reports do not indicate the date of service of December 13, 2019. The

tenant was given ample time during the hearing to look up information and to provide the correct dates.

I notified the tenant that his application was dismissed with leave to reapply. I informed him that he would be required to file a new application, pay a new filing fee, and provide proof of service at the next hearing, if he chooses to pursue this matter further.

The tenant asked if he could apply for monetary compensation for the landlords unreasonably withholding permission for him to sublet the rental unit. I notified the tenant that I could not give him legal advice on what to apply for, so he can retain a lawyer if he requires one. The tenant confirmed his understanding of same.

Conclusion

The tenant'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 04, 2020

Residential Tenancy Branch