



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding PENINSULA PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNDL-S, MNRL-S, MNDCL-S, FFL

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss, for a monetary Order for unpaid rent, for a monetary Order for damage to the rental unit, to keep all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

Issue(s) to be Decided

Is the Landlord entitled to compensation for damage to the rental unit, to compensation for unpaid rent/lost revenue, and to keep all or part of the security deposit?

Background and Evidence

The Agent for the Landlord stated that on August 08, 2022 the Dispute Resolution Package was sent to each Tenant, via registered mail, at the service address noted on the Application for Dispute Resolution.

The Agent for the Landlord stated that the service address noted on the Application for Dispute Resolution was provided to the Landlord in 2019 by the party who co-signed the tenancy agreement.

The Agent for the Landlord stated that a forwarding address was not provided to the Landlord at the end of the tenancy.

Analysis

The purpose of serving the Application for Dispute Resolution and the Notice of Hearing to tenants is to notify them that a dispute resolution proceeding has been initiated and to give them the opportunity to respond to the claims being made by the landlord. When a landlord files an Application for Dispute Resolution in which the landlord applies for a monetary Order, the landlord has the burden of proving that the tenant was served with the Application for Dispute Resolution in accordance with section 89(1) of the *Residential Tenancy Act (Act)*.

Section 89(1) of the *Act* permits a party to serve an Application for Dispute Resolution to the other party in 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.

Section 43(2) of the *Residential Tenancy Regulation* stipulates that documents described in section 89 (1) of the *Act* may, for the purposes of section 89(1)(f) of the *Act*, be given to a person by emailing a copy to an email address provided as an address for service by the person.

As there is no evidence that the Application for Dispute Resolution was served to the Tenants pursuant to sections 89(1)(a), 89(1)(e), or 89(1)(f) of the *Act*, I cannot conclude that the Application for Dispute Resolution was served to the Tenants in accordance with those sections.

As I have no evidence to conclude that the Tenants are currently living at the service address used by the Landlord, I cannot conclude that the Application for Dispute Resolution was served to the Tenants in accordance with section 89(1)(c) of the *Act*.

As the evidence does not establish that the Tenants provided the service address as a forwarding address, I cannot conclude that the Application for Dispute Resolution was served to the Tenants in accordance with section 89(1)(d) of the *Act*.

The Landlord submitted no evidence to cause me to conclude that the Tenants received the Application for Dispute Resolution. I therefore cannot conclude that the Application has been sufficiently served pursuant to sections 71(2)(b) or 71(2)(c) of the *Act*.

As there is insufficient evidence to establish that the Application for Dispute Resolution was properly served to the Tenants, I am unable to proceed with the hearing in the absence of the Tenants. The Application for Dispute Resolution is therefore dismissed, with leave to reapply.

Conclusion

The Application for Dispute Resolution is therefore 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 *Act*.

Dated: April 27, 2023

Residential Tenancy Branch