

Residential Tenancies Tribunal

Application 2023-0448-NL

Decision 23-0448-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 1:48 p.m. on 22-June-2023.
2. The applicant, [REDACTED] hereinafter referred to as the tenant, attended by teleconference.
3. The respondent, [REDACTED] are represented by [REDACTED] and [REDACTED] hereinafter referred to as "landlord1 and landlord2," both attended by teleconference.

Preliminary Matters

4. The applicant submitted an affidavit (TT#01) stating that he served the landlord with notification of today's hearing on 09-June-2023; the landlords confirmed receipt of notification as stated by the tenant.
5. During the presentation of the claim an issue of jurisdiction arose, this requires a decision, prior to deciding issues in the Application for Dispute Resolution. The following is this tribunal's decision regarding Jurisdiction.

Issues before the Tribunal

6. This tribunal is required to adjudicate on its jurisdiction to hear this claim.

Legislation and Policy

7. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
8. Also relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 42: Application to director.

Issue 1: Jurisdiction

Applicant's Position

9. The applicant stated that Collections has contacted him on behalf of the landlord for monies owed after the end of the rental agreement.

Respondents' Position

10. Landlord2 confirmed that they had not filed a claim with Residential Tenancies for the damages in question. They agreed to withdraw the claim with collections and apply to this office for the damages sought.

Analysis

11. This tribunal has no authority over collections, as there has been no application to this office for damages we have no authority in this matter.
12. Section 42 of the *Residential Tenancies Act, 2018* states:

Application to director

42. (1) A landlord or tenant may, within one year after termination of the rental agreement, apply to the director to determine

- (a) a question arising under this Act or the regulations;*
- (b) whether a provision of a rental agreement has been contravened; or*
- (c) whether a provision of this Act or the regulations has been contravened.***

(2) An application under subsection (1) shall be submitted to the director in the form and with the fee set by the minister.

(3) The applicant shall serve the application submitted to the director under subsection (2) by

- (a) giving it personally to the other party;*
- (b) sending it to the other party by prepaid registered mail or prepaid express post at an address provided by the other party;*
- (c) sending it electronically where*

(i) it is provided in the same or substantially the same form as the written notice or document,

(ii) the other party has provided an electronic address for receipt of documents, and

(iii) it is sent to that electronic address; or

(d) sending it to the other party by courier service at an address provided by the other party.

(4) Where the other party is a company, a copy of the application may be served by giving it personally to a director, manager or other officer of that company or by leaving it at, or sending it to the registered office of that company by a method set out in paragraphs (3)(b) to (d).

(5) Notwithstanding subsection (3), an applicant may apply to the director and the director may issue an order authorizing another method of service where, after making reasonable efforts, the applicant has been unable to serve the other party under subsection (3).

(6) For the purpose of this section, where a copy of the application is sent by registered mail or express post, it shall be considered to have been served on the fifth day after mailing, and the service may be proved by providing evidence that the copy of the application was prepaid and properly addressed and sent.

(7) For the purpose of this section, where a copy of the application is sent electronically, it shall be considered to have been served on the day it is sent, if the document is sent before 4 p.m., or the next day that is not a Saturday or holiday, if the copy of the application is sent after 4 p.m.

(8) Where an application is submitted to the director under subsection (2), the director shall, where that application is not withdrawn by the applicant under section 44,

(a) refuse to accept the application under section 43;

(b) dismiss the application under section 43;

(c) attempt to mediate a settlement of the matter in the application under section 45;

(d) require a hearing of the application to be conducted in accordance with section 46; or

(e) issue an order without a hearing under section 48.

(9) Where the date, time or place of the hearing of the application under this section is changed, the director shall notify the landlord and tenant of the change by a method set out in subsection (3).

(10) Notwithstanding subsection (9), where the matter involves more than 50 tenants who live in the same residential complex, the notice that the date, time or place of the hearing of the application under this section is changed may be placed in the mailbox of each tenant and posted in a conspicuous place in the residential premises.

13. Any company may seek the services of a collections agency for monies owed. This service is not covered under the *Residential Tenancies Act, 2018*, and is therefore not under our jurisdiction.

Decision

14. This claim is not under the jurisdiction of the Residential Tenancies Act.

June 28, 2023

Date


Jacqueline Williams, Adjudicator
Residential Tenancies Office