



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

CNR, LAT

### **Introduction**

This Application for Dispute Resolution by the tenant was seeking to cancel a Ten Day Notice to End Tenancy for Unpaid Rent. However neither a copy of the Notice nor a copy of the tenancy agreement had been submitted into evidence.

The tenant was also seeking an order to authorize the tenant to change locks.

The applicant tenant was present at the hearing, but the landlord did not appear.

### **Preliminary Issue**

The hearing commenced as scheduled and only the applicant tenant appeared. At the outset of the hearing, when asked to verify the date and method of service, the tenant was unable to provide the exact date that the landlord was served with the hearing package or the Notice of Hearing to attend these proceedings.

Section 59 of the Act states that an application for dispute resolution must be in the approved form, include full particulars of the dispute that are the subject of the dispute resolution proceedings. A person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director. (my emphasis)

Section 89 (1) of the Act states that an application for dispute resolution 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*]. (substitute service)

The burden of proof is on the applicant to prove that the respondent was properly served according to the Act.

Given that the tenant failed to provide sufficient proof that the respondent was served in compliance with the Act, I found that the hearing could not proceed.

In addition to the above, section 59 (2) of the Act states that an application for dispute resolution must be in the applicable approved form and include full particulars of the dispute that is the subject of the dispute resolution proceedings. Section 62(4) provides that all or part of an application for dispute resolution may be dismissed if the application fails to disclose a dispute that may be determined under this Part.

I find that any application seeking to cancel a Notice to End Tenancy would require that a copy of the Notice under dispute be submitted into evidence. In the case before me neither the applicant nor the respondent had submitted a copy of the Ten Day Notice to End Tenancy for Unpaid Rent.

Accordingly, I hereby dismiss the tenant's application with leave to reapply.

### **Conclusion**

The tenant is not successful in the application as the hearing could not proceed. Service to the landlord, in accordance with the Act, could not be adequately verified and the application also did not include a copy of the Notice under dispute.

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, 2014

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Residential Tenancy Branch

