



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Atira Womens Resource Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction and Preliminary and Procedural Matters

This hearing was convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act ("Act"). The landlord applied for an order ending the tenancy earlier than the tenancy would end if a notice to end the tenancy were given under section 47 of the Act.

The landlord's agents attended the telephone conference call hearing; the tenant did not attend.

At the beginning of the hearing, I asked the landlord the method in which the tenant was served with their application and hearing package, which included a notice of this hearing, and they replied the documents were hand delivered to the tenant.

I inquired of the landlord's agents if one of them had served the tenant with their application, and they said no, naming another person. I asked if that person was available to testify, and they said "no". I then asked if there was a witness to the other person serving the application, and the landlord's agents said yes. I then asked if that person was available to testify, and the response was "no".

At this point, I informed the landlord's agents that I would wait 10 minutes from the beginning of the hearing to ensure the tenant had ample time to dial into the hearing, and the tenant did not do so at the conclusion of the 10 minutes.

Analysis and Conclusion

Section 89(1) of the Act requires that an application for dispute resolution be served upon the respondent (the tenant in this case) by leaving it with the person, by sending a copy by registered mail to the address at which the person resides or if a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant.

Section 3.5 of the Dispute Resolution Rules of Procedure (Rules) requires an applicant to be prepared to demonstrate to the satisfaction of the Arbitrator that each respondent was served with the hearing package and all evidence, as required by the Act.

In this case, as the person who was said to have delivered the landlord's application and hearing package was not available to testify at the beginning of the hearing nor submitted an affidavit or written proof of the date and time they served the tenant, I was not satisfied that the tenant was served in accordance with the Act.

I therefore find that the landlord failed to submitted sufficient evidence that they complied with section 89(1) of the Act regarding service of their application to the respondent and, as a result, I dismiss the landlord's application, with leave to reapply.

Leave to reapply is not an extension of any applicable time limitation deadlines.

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: October 16, 2015

Residential Tenancy Branch

