



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, DRI, CNR, MNSD, OLC, PSF, LRE, AAT, LAT, SS, FF, O

This hearing was set to hear the tenant's application for a long list of orders including an order allowing the service of documents in a manner not prescribed by the *Residential Tenancy Act*. The tenant appeared at the hearing; the landlord did not. The landlord had not filed any evidence in advance of the hearing.

The rental unit was a lower level suite. The landlord lives upstairs. The tenant said that he took the Application for Dispute Resolution and Notice of Hearing to the landlord's home accompanied by his cousin and the police. The landlord refused to open the door. He, the landlord and the landlord's boyfriend had a shouted conversation through the door. He told the landlord's boyfriend that he had something for the landlord and left the documents in the mailbox. The tenant's testimony as to whether he saw the boyfriend open the door and take the documents was not completely clear or consistent.

The tenant said he also mailed a copy to the landlord by ordinary mail.

The tenant said his cousin has injured himself which is why he was not present on the conference call.

The tenant also said he has had no communication with the landlord since he left the documents in the mailbox even though he has been going to the house every few days.

Section 89 provides that an Application for Dispute Resolution by a tenant against a landlord must be served in one of the following ways:

- by leaving a copy with the landlord or an agent of the landlord;
- by sending a copy by registered mail to the landlord's home or business address;
- or,
- as ordered by an arbitrator.

Service by posting the documents in a prominent place or leaving them in the mail box is not one of the permitted methods of service.

Section 71(2) does allow an arbitrator to order that a document that has not been served in accordance with section 89 has nonetheless been sufficiently served for the purposes of the Act. Before granting an order pursuant to section 71(2) and going ahead with a claim in the absence of the respondent, an arbitrator should be satisfied that the documents were served in the manner directed and that the respondent did receive them.

In this case there is no evidence from a witness to corroborate the tenant's testimony that he left the documents in the mailbox and nothing to indicate that the landlord actually received them. As a result, I dismissed the tenant's application with leave to re-apply.

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: August 30, 2016

Residential Tenancy Branch