



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Ferrari & Alayli Developments Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      SS

### Introduction

This decision deals with the landlord's Application for Substituted Service.

The decision is based on the landlord's written submission only and a participatory hearing was not conducted.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled serve documents in a manner not normally allowed, pursuant to Section 71 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord submitted that he is seeking an alternate method to serve the tenant with documents related to an Application for Dispute Resolution seeking compensation from the tenant.

In response to the statement: "I have attempted to give or serve the documents by:" the landlord wrote: "Mail. I have attempted to request the tenant's address by text message and by email. The tenant left without my knowledge."

The landlord goes on to ask to serve the tenant by email because "she has responded by email in the past"

### Analysis

Section 89 of the *Act* states 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 that 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; or
- e) As ordered by the director.

From the landlord's submission it appears that the tenant is no longer responding to his email messages and as such, I am not satisfied that there is sufficient information to establish that the email address currently being used by the landlord is the tenant's current email address.

Furthermore, the landlord has provided no information on any actual attempts to serve the tenant. He states that he has tried to serve her by mail but then he states that he doesn't have her address – as such, I find it unlikely that the landlord could have attempted to serve his hearing documents by mail.

The landlord has not provided any information as to whether he has attempted to serve the tenant with his hearing documents using any of the other allowable methods under Section 89, such as in person.

Section 14 of Residential Policy Guideline 12 states an application for substituted service may be made at the time of filing the application for dispute resolution or at a time after filing. The party applying for substituted service must be able to demonstrate two things:

- That the party to be served cannot be served by any of the methods permitted under the Legislation, and
- That there is a reasonable expectation that the party being served will receive the documents by the method requested.

Based on the landlord's submissions I am not satisfied that the landlord has provided sufficient evidence to establish that the tenant could not be served by any other method and that there is a reasonable expectation that the tenant will receive the documents if sent by email.

Conclusion

As a result, I dismiss the landlord's Application for Substituted Service, at this time. However, I grant the landlord leave to reapply should the circumstances above change.

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 20, 2016

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Residential Tenancy Branch