



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order regarding a disputed additional rent increase, pursuant to section 43;
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord did not attend this hearing, which lasted approximately 8 minutes. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue – Service of Tenant's Application

The tenant testified that the landlord was served with the tenant's application for dispute resolution hearing package ("Application") on September 10, 2016 by leaving a copy under the door at the landlord's rental unit.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads as follows (emphasis added):

89 (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, 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].*

I find that the tenant has failed to demonstrate that the landlord was served in accordance with section 89(1) of the *Act*. Leaving a copy of the Application under a door is not permitted under the *Act*. The landlord did not appear at this hearing to confirm that she received the Application.

During the hearing, I advised the tenant that I was unable to confirm service of his Application on the landlord. I notified the tenant that he was not entitled to recover the \$100.00 filing fee for this Application. I advised the tenant that his Application to dispute an additional rent increase was dismissed with leave to reapply. I notified the tenant that he would be required to file a new application, pay a new filing fee and be prepared to prove service in accordance with section 89(1) of the *Act*, at the next hearing, if he wished to pursue this matter further against the landlord.

Conclusion

The landlord's Application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The landlord's Application to dispute an additional rent increase is dismissed with leave to reapply.

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 31, 2016

Residential Tenancy Branch