



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

ET, MNR, FF

Introduction

This hearing dealt with an application by the landlord seeking to end this tenancy early pursuant to section 56 of the *Act*, compensation for unpaid rent and to recover the filing fee costs from the tenant.

The landlord provided affirmed testimony that the Notice of hearing was not received and that the tenant was not given notice of the hearing. The landlord could not explain why the hearing documents were not retrieved from the Service BC office that was used to make the application. The landlord had obtained the conference call dialing instructions from Service BC.

Considerable discussion occurred in relation to the application process; the need to submit evidence with the application and the requirement to obtain the hearing documents and the Notice of Hearing, for service to the respondent.

Section 89(1) of the *Act* provides:

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].*

The landlord applied seeking compensation and an order of possession; therefore service was required either by leaving a copy of the hearing documents with the tenant or by sending the documents to the tenant via registered mail.

Therefore, as the tenant was not served with Notice of the hearing I find that the application is dismissed with leave to reapply.

I note that generally a monetary claim will not be heard combined with a request for an early end to a tenancy.

Conclusion

The application is dismissed with leave to reapply.

This decision is final and binding and 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: January 05, 2017

Residential Tenancy Branch