



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      LRE, O, OLC

### Introduction

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order setting conditions on the landlord's right to enter the rental unit.
- b. An order that the landlord comply with the Act, regulation and/or tenancy agreement.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

The tenant testified she e-mailed the landlord a copy of the Application for Dispute Resolution on March 14, 2017. I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the landlord on March 18, 2017. With respect to each of the applicant's claims I find as follows:

### Issues to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order setting conditions on the landlord's right to enter the rental unit.
- b. Whether the tenant is entitled to an order that the landlord comply with the Act, regulation and/or tenancy agreement.

### Background and Evidence:

The tenancy began on July 1, 2016 when the parties entered into an oral tenancy agreement that provided the tenant would pay rent of \$1250 per month payable on the 26<sup>th</sup> day of the previous month. The tenant paid a security deposit of \$1250 at the start of the tenancy.

The tenant has failed to pay the rent for March 2017. The landlord served a 10 day Notice to End Tenancy on March 15, 2017. The tenant is in the process of filing an Application for Dispute Resolution to dispute the Notice..

### Analysis

After hearing submissions from the parties I determined the tenant's claim should be dismissed with liberty to re-apply for the following reasons:

- The Residential Tenancy Act and the Rules of Procedure provides that the tenant must serve the Application for Dispute Resolution on the respondent within 3 days of making it. The Application was filed on February 27, 2017. The tenant purported to serve the respondent by e-mail on March 14, 2017. She did not properly serve the respondent until she personally served the landlord on March 18, 2017 which is 19 days after filing. The tenant failed to provide a sufficient explanation for the delay and there is no basis to grant an extension of time. . The landlord has been prejudiced as he has had insufficient time to prepare.
- Rule 3.14 of the Rules of Procedure provides that documentary and digital evidence that is intended to be relied on at the hearing must be received by the respondent and the Residential Tenancy Branch not less than 14 days before the hearing. The tenant is relying on e-mails and text messages. She has failed to provide the Branch and the landlord with copies of these messages.
- I determined that an adjournment is not appropriate remedy to deal with the tenant's failure to follow these procedural requirements as the tenant failed to provide a sufficient explanation for the delay.
- The Application for Dispute Resolution filed by the Tenant does not make a claim for a monetary order. However, the summary of the tenant's claim seems to indicate that she has paid additional sums not permitted by the Act and tenancy agreement. If the tenant is intending to make a monetary claim she must clearly set out her claim.
- The rent for March has not been paid. The landlord has served a 10 day Notice to End Tenancy on the tenant. The tenant has been unable to make the payment of the arrears within 5 days of receiving the Notice. The tenant stated she is in the process of applying to cancel the Notice to End Tenancy. The resolution of the status of the tenancy should be dealt with before this matter is heard.

### Conclusion

**In summary I ordered that the application of the tenant be dismissed with liberty to re-apply. I have not decided the issues on the merits. Liberty to re-apply is not an extension of any applicable limitation period.**

**This decision is final and binding on both parties.**

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: March 23, 2017

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Residential Tenancy Branch