



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR, ERP, RP, RR, OLC, FF, O

### Introduction

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- an order to the landlord to make repairs to the rental unit pursuant to section 33;
- an order to the landlord to make emergency repairs to the rental unit pursuant to section 33;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

An agent of the landlord did not attend this hearing, although I waited until 11:12 a.m. in order to enable the landlord to connect with this teleconference hearing scheduled for 11:00 a.m.

The tenant attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The tenant testified that they served the Tenant's Application for Dispute Resolution (the Tenant's Application) to the landlord by way of regular mail. The tenant further testified that he did not know that he had to serve the landlord by way of registered mail.

### Analysis

In this type of matter, the tenant must prove they served the landlord with the Tenant's Application, with all the required inclusions as indicated on the Notice of Hearing document, as per section 89 (1) of the *Act* which permit service by leaving a copy with the landlord or an agent of the landlord or "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.” The definition of registered mail is set out in section 1 of the *Act* as “any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available.”

I find the tenant served the landlord by way of regular mail and no confirmation of delivery to a named person was available in the method that the tenant chose to serve the landlord. For this reason I find that the tenant did not serve the landlord in accordance with section 89 of the *Act*.

Since I find that the tenant has not served the landlord with Tenant's Application in accordance with section 89 of the *Act*, I dismiss the tenant's application in its entirety, with leave to reapply.

I make no findings on the merits of the matter.

Leave to reapply is not an extension of any applicable limitation period.

#### Conclusion

The Tenant's Application 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: December 06, 2017

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Residential Tenancy Branch