



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET

### Introduction

This hearing dealt with a Landlord's Application for an order to end the tenancy early and an Order of Possession under section 56 of the Act. The respondent did not appear at the hearing. The applicant's spouse testified that she slid the hearing documents under the door of the room rented to the respondent on December 7, 2017. The applicant's wife testified that another roommate/tenant told her that the respondent/tenant received the hearing documents.

Where a respondent does not appear at a hearing, the applicant must be prepared to prove that the respondent was served with notification of the proceeding in a manner that complies with the Act. Where a party seeks an Order of Possession, the Application for Dispute Resolution must be served upon the respondent in one of the ways provided under section 89(2) of the Act. Section 89(2) provides for the following methods of service:

(2) An application by a landlord under section 55 [*order of possession for the landlord*], 56 [*application for order ending tenancy early*] or 56.1 [*order of possession: tenancy frustrated*] must be given to the tenant in one of the following ways:

- (a) by leaving a copy with the tenant;
  - (b) by sending a copy by registered mail to the address at which the tenant resides;
  - (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
  - (d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;
  - (e) as ordered by the director under section 71
- (1) [*director's orders: delivery and service of documents*].

Sliding documents under a door is not a permissible method of service under section 89(2). Accordingly, I find the applicant/landlord did not properly serve the respondent with notice of this proceeding; and, given the absence of the tenant at the hearing, or the testimony of the person who allegedly witnessed the tenant with the hearing documents, I decline to deem the respondent/tenant sufficiently served. Therefore, I dismiss this application with leave to reapply.

As a cautionary note, the applicant provided information to me during the hearing that suggests the *Residential Tenancy Act* may not apply to the agreement between the parties in which case the Residential Tenancy Branch would not have jurisdiction to resolve disputes between the parties. I strongly suggest the parties refer to Residential Tenancy Branch Policy Guideline 19: *Assignment and Sublet* with particular attention to section C. Subletting and the sub-section entitled “Occupants/roommates” before filing any future Application for Dispute Resolution. The policy guideline is available on the Residential Tenancy Branch website and additional assistance may be obtained by contacting an Information Officer with the Residential Tenancy Branch.

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: January 02, 2018

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Residential Tenancy Branch