



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

This decision pertains to the Landlord's application for dispute resolution made on April 9, 2018, under the *Residential Tenancy Act* (the "Act"). The Landlord seeks an order for an early end of tenancy and order of possession pursuant to section 56 of the Act.

The Landlord attended the hearing before me, and was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. One witness attended for the Landlord. The Tenant did not attend.

While I have reviewed all oral and documentary evidence submitted, only relevant evidence pertaining to the issue of this application will be considered in my decision.

### Preliminary Issue – Service of Notice of Dispute Resolution Proceeding Package

Section 59 of the Act requires that "a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director."

Rule 3.1 of the Rules of Procedure, under the Act, similarly requires that an applicant must "within three days of the the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch" serve the respondent with the Notice of Dispute Resolution Proceeding provided, along with instructions, a fact sheet, and any other evidence submitted to the Residential Tenancy Branch.

Rule 3.14 of the Rules of Procedure further states that all evidence "intended to be relied on at the hearing must be received by the respondent [. . .] not less than 14 days before the hearing."

The Branch's case management system indicated that the Landlord applied for dispute resolution on April 9, 2018, and that the Branch e-mailed the Notice of Dispute Resolution Proceeding (the "Notice") to the Landlord on April 11, 2018.

The Landlord testified that they served the Tenant with the Notice and additional required material (by leaving copies on the Tenant's door) on April 21, 2018, a full 10 days after the Notice was made available to them. Pursuant to Section 90 of the Act, the Tenant is deemed to have been served with the Notice on April 24, 2018. As a result, the Tenant would have been deemed served only 10 days before the hearing.

Given that the Landlord has failed to serve the Tenant with the Notice and required material within the time limits prescribed by the Act and the Rules of Procedure, I hereby dismiss the Landlord's application with leave to reapply.

### Conclusion

I dismiss the Landlord's application 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: May 11, 2018

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Residential Tenancy Branch