



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FFL, RP, PSF, LRE, OLC, FFT

Introduction

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

- an Order for regular repairs, pursuant to section 32;
- an Order to provide services or facilities required by the tenancy agreement or law, pursuant to section 62;
- an Order to restrict or suspend the landlord's right to enter, pursuant to section 70;
- an Order for the landlord to comply with the *Act*, regulation, and/or the tenancy agreement, pursuant to section 62; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

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

- an Order of Possession for Landlord's Use of Property, pursuant to sections 49 and 55; and
- authorization to recover the filing fee for this application from the tenants, pursuant to section 72.

Preliminary Issue- Service

The landlord testified that she did not serve the tenant with her notice of dispute resolution package.

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

89(1) An application for dispute resolution,...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 document]...*

I find that the landlord did not serve the tenant in a manner required by section 89(1) of the *Act*. At the hearing, I advised the landlord that I was dismissing her application with leave to reapply.

I notified the landlord that if she wished to pursue this matter further, she would have to file a new application. I cautioned her to be prepared to prove service at the next hearing, as per section 89 of the *Act*. I notified the landlord that she could consult a lawyer for legal advice or an information officer at the Residential Tenancy Branch for information regarding the *Act* or the hearing process.

The tenant testified that she served the landlord with her notice of dispute resolution package on September 7, 2018 via registered mail. The landlord testified that she received the notice of dispute resolution package on September 9, 2018. I find that the landlord was served with the notice of dispute resolution package on September 9, 2018 in accordance with section 89 of the *Act*.

Preliminary Issue- Tenancy Status

Both parties agreed that the tenant vacated the subject rental property on October 1, 2018. I find that the issues raised in the tenant's application are no longer applicable as the tenancy has ended.

Conclusion

I dismiss the tenant's application to recover the \$100.00 filing fee without leave to reapply.

The remainder of the landlord'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: October 18, 2018

Residential Tenancy Branch