



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act") for an order of possession to end the tenancy early on an urgent basis due to a tenant who poses an immediate and severe risk to the rental property, other occupants or the landlord, and to recover the cost of the filing fee.

The landlord attended the teleconference hearing. As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing ("Notice of Hearing"), application, and documentary evidence were considered. The landlord testified that the tenant vacated the rental unit on December 16, 2018 and has not provided his written forwarding address to the landlord. The landlord stated that he texted the tenant regarding this hearing as he did not have a service address for the tenant.

In addition, the landlord testified that the tenant vacated the rental unit since the landlord filed their application and that the tenant abandoned personal property in the storage locker assigned to the rental unit. As a result, the landlord was advised to review sections 24 and 25 of the *Residential Tenancy Regulation* which deals with abandonment of personal property.

Based on the above, and taking into account that the tenant did not attend the hearing, and that the landlord has not applied for an Order for Substitute Service, I am not satisfied that the tenant was sufficiently served with the Notice of Hearing, application and documentary evidence under the *Act* in a method approved by the *Act*. I have reached this decision after considering the fact that the landlord confirmed that he did not have an order authorizing him to serve the tenant by email or text.

Both parties have a right to a fair hearing and the tenant would not be aware of the hearing without having received the Notice of a Dispute Resolution Hearing and application. Therefore, **I dismiss** the landlord's application **with leave to reapply**. I note this decision does not extend any applicable time limits under the *Act*.

Conclusion

The landlord's application is dismissed with leave to reapply due to a service issue. The landlord is at liberty to apply for a substitute service order under the *Act* which will require evidence for an arbitrator to consider. This decision does not extend any applicable time limits under the *Act*.

A copy of this decision will be sent by email to both parties at the email addresses provided by the landlord for both parties in the landlord's application.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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 10, 2019

Residential Tenancy Branch