



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for an order of possession for unpaid utilities and rent, and to recover the cost of the filing fee for this Application.

The Landlord appeared at the teleconference hearing and gave affirmed testimony; however, the Tenant did not attend, so I must consider service of the Notice of Dispute Resolution Proceeding ("Notice of Hearing"), the Application, and documentary evidence. There is no evidence before me that these special documents were served on the Tenant which is required under section 89 of the Act. I am not satisfied that the Tenant was sufficiently served with the Notice of Hearing, the Application and Landlord's documentary evidence.

While I heard testimony from the Landlord in this matter in the hearing, I found that the Tenant was not served with the Notice of Hearing and Application, as required by the Act; as such, it would be inconsistent with the principles of administrative fairness to render a decision on the merits of the Application when the Tenant was not provided notice of the hearing, as is required, or an opportunity to respond or appear in their defense.

Accordingly, I dismiss the Landlord's Application with leave to reapply.

Conclusion

The Landlord's Application is dismissed with leave to reapply due to a service issue. This decision does not extend any applicable time limits under the Act.

The Landlord was advised that this decision will be emailed to the Parties at the email addresses provided by the Landlord.

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*.

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Dated: January 28, 2019

Residential Tenancy Branch