



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

RR. FFT

Introduction:

This hearing was convened in response to an Application for Dispute Resolution filed by the Tenant in which the Tenant applied for a rent reduction and to recover the fee for filing this Application for Dispute Resolution.

Issue(s) to be Decided:

Is the Tenant entitled to a rent reduction?

Background and Evidence:

The Tenant stated that on February 25, 2019 she sent the Application for Dispute Resolution and the Notice of Hearing to an address from which the Landlord conducts business as an electrician, via a well-known courier service. She stated that she has a post office mailing box as an address for the Landlord. She stated that she submitted no evidence to corroborate her testimony that she sent the documents through a courier and she submitted no evidence to establish these documents were received.

Analysis:

The purpose of serving the Application for Dispute Resolution and the Notice of Hearing to a landlord is to notify the party that a dispute resolution proceeding has been initiated and to give the party the opportunity to respond to the claims being made by the tenant. When a tenant files an Application for Dispute Resolution in which the tenant applies for a rent reduction, the tenant has the burden of proving that the landlord was served with the Application for Dispute Resolution in compliance with section 89(1) of the

Residential Tenancy Act (Act).

Section 89(1) of the *Act* stipulates, in part, that a tenant must serve a landlord with an Application for Dispute Resolution 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;
- (e) as ordered by the director under section 71 (1) [director's orders: delivery and service documents].

On the basis of the testimony of the Tenant I find that the Application for Dispute Resolution and the Notice of Hearing were not personally served to the Landlord or to an agent for the Landlord. I therefore find that these documents were not served pursuant to section 89(1)(a) or 89(1)(b) of the *Act*.

On the basis of the testimony of the Tenant I find that the Application for Dispute Resolution and the Notice of Hearing were not mailed to the Landlord. I therefore find that these documents were not served pursuant to section 89(1)(c) of the *Act*.

There is no evidence that the director authorized the Tenant to serve the Application for Dispute Resolution to the Landlord in an alternate manner. I therefore find that she was not served in accordance with section 89(1)(e) of the *Act*.

The Tenant submitted insufficient evidence to cause me to conclude that the Landlord received the Application for Dispute Resolution and I therefore cannot conclude that the Application has been sufficiently served pursuant to sections 71(2)(b) or 71(2)(c) of the *Act*.

As the Tenant has failed to establish that the Application for Dispute Resolution was sufficiently served to the Landlord, I find that I am unable to proceed with the hearing in the absence of the Landlord. The Application for Dispute Resolution is therefore dismissed, with leave to reapply.

Conclusion:

The Application for Dispute Resolution 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: March 11, 2019

Residential Tenancy Branch