



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET, FFT

### Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution filed under the *Residential Tenancy Act* (the "*Act*"), made on February 6, 2019. The Landlord applied for an early end of tenancy, pursuant to section 56 of the *Act*, and to recover the filing fee paid for the application. The matter was set for a conference call.

The Landlord and the Landlord's girlfriend (the "Landlord") attended the hearing. As the Tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing documents was considered. Section 59 of the *Act* and the Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The Landlord testified that the Application for Dispute Resolution and Notice of Hearing documents had been emailed to the Tenants. Section 89 of the *Act* sets out the required method of service for the Notice of Dispute Resolution Hearing documents for an application for Early End of Tenancy.

### **Special rules for certain documents**

**89** (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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 documents*].

The Landlord testified that he is travelling in Australia and that he had received approval for substituted service in a previous hearing. When asked if the Landlord had submitted the decision granting him Substituted Service into documentary evidence, the Landlord testified that he did not recall receiving a written decision from the previous proceeding.

I do acknowledge that the Landlord had applied for Substituted Service to this hearing, with his evidence package. The Landlord stated the following in his application for Substituted Service:

“I do not have time to send e-mail evidence 15,000 km to the Tenants. I need to expedite this through e-mail service please”

[Reproduced as written]

I find the claim by the Landlord that he requires Substituted Service by e-mail due to lack of time to be unsupported. I find that there is no evidence before me to show that the Australian Postal Service was unable to deliver the Notice of Hearing documents to the Tenants in Canada within the required timeline.

I acknowledge that expedited mail delivery from Australia to Canada may involve additional costs; however, I do not find that the expense related to mailing is a reasonable justification for an application for Substituted Service.

For the above reason, I dismiss the Landlord's application for Substituted Service.

Pursuant to section 89 of the *Act* I find that service of the Notice of Dispute Resolution Hearing documents by email was not in an approved method. Therefore, I find that the Tenants have not been duly served the notification of this hearing as required, pursuant to section 59 of the *Act*.

Therefore, I dismiss the Landlord application with leave to reapply. This decision does not extend any legislated timelines pursuant to the *Act*.

### 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: March 14, 2019

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Residential Tenancy Branch