



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FF

Introduction

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

- an early end to this tenancy and an order of possession pursuant to section 56;
- authorization to recover her filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing.

Preliminary Issue: Service of Landlord's Application

The landlord testified that he served the application for dispute resolution package by sending a copy by registered mail to the rental unit address. The landlord's evidence submissions indicate the tenant has moved out of the unit and is currently out of the country but her friend continues to reside in the unit. The landlord has been in communication with the tenant by e-mail. The landlord testified that he has also been in communication with the tenant by telephone and requested the tenant's current address but the tenant refused to provide such. There is no indication in the e-mail communication that the landlord requested a current address and that this request was denied.

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 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 document]...*

(2) An application by a landlord under section 55 [order of possession for the landlord], 56 [application for order ending tenancy early] or 56.1 [order of possession: tenancy frustrated] must be given to the tenant in one of the following ways:

- (a) by leaving a copy with the tenant;*
- (b) by sending a copy by registered mail to the address at which the tenant resides;*
- (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;*
- (d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;*
- (e) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents].*

I find the landlord has provided insufficient evidence that the tenant has been served with the landlord's application for dispute resolution by registered mail to either an address at which the tenant resides or a forwarding address provided by the tenant or in person as required by section 89(1) of the Act. I find the landlord provided insufficient evidence that they attempted to obtain a current address from the tenant. If the tenant refuses to provide a current address the landlord may also make an application for substituted service as per section 71 of the Act.

Conclusion

I dismiss the landlord's application with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

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: May 02, 2019

Residential Tenancy Branch