



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      RP RR FF

### Introduction

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

- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing.

### Preliminary Issue: Service of Tenant's Application and naming of respondent

A.S. attended the hearing on behalf of the landlord. A.S. advised that she is named as the executor of the will for her Aunt who is the legal landlord in this matter. A.S. advised that the tenant has not properly served her with the Application and Notice of Hearing. A.S. testified that she only learned of the proceeding the day before when her lawyer forwarded her the application materials. A.S. advised the tenant incorrectly served her lawyer who did not have instructions to act on the landlord's behalf on this matter. A.S. advised that the tenant had only been instructed to forward rent payments to the lawyer as A.S. resides in a different city. A.S. testified that after her Aunt passed away, she met with the tenant and dropped off a letter with her name and phone number and advised to contact her in any matters relating to the tenancy. A.S. testified that the tenant made no attempts to contact her and obtain an address for service.

The tenant stated that she was advised by A.S. to make all contact through her lawyer which is why she sent the material to the lawyer and named the lawyer's office as the respondent.

I have reviewed the letter sent to the tenant from the landlord's lawyer. It is very clear in this letter that the lawyer was only acting on behalf of the landlord in directing the rent payments be forwarded to them to be held in trust and not for all tenancy related matters.

I find the tenant has not named the correct landlord or properly served the landlord with this application. A.S. provided an address for service to the tenant during the hearing so the application can be properly served if necessary. The application should name A.S. as the executor of the will for the deceased landlord.

### Conclusion

I dismiss the tenant'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: March 06, 2020

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Residential Tenancy Branch