



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ATIRA PROPERTY MANAGEMENT INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR-DR

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord on February 12, 2020 (the "Application"). The Landlord sought an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated January 22, 2020 (the "Notice").

As stated, the Application was filed February 12, 2020. The Application went through the direct request process. An Interim Decision was issued February 24, 2020 adjourning the matter to a participatory hearing. The Interim Decision states:

### Conclusion

I order that the direct request proceeding be reconvened in accordance with section 74 of the Act. I find that a participatory hearing to be conducted by an arbitrator appointed under the Act is required in order to determine the details of the landlord's application.

**Notices of Reconvened Hearing are enclosed with this interim decision. The applicant must serve the Notice of Reconvened Hearing, the interim decision, and all other required documents, upon the tenant within three (3) days of receiving this decision in accordance with section 89 of the Act.**

The Agents appeared at the hearing for the Landlord. Nobody appeared at the hearing for the Tenant. I explained the hearing process to the Agents who did not have questions when asked. The Agents provided affirmed testimony.

The Landlord submitted evidence prior to the hearing. The Tenant did not. I addressed service of the hearing package.

D.O. testified that the hearing package was posted on the door of the rental unit January 22, 2020 by the previous manager. I advised that this could not have been the date of service because the Application was filed in February.

D.O. testified that the hearing package was served February 12, 2020. I advised that this could not have been the date of service because the Interim Decision was not issued until February 24, 2020.

J.V. advised that the Agents were not working at the time of service and asked for a moment to look into it. The Agents took a moment. J.V. then advised that the Agents did not have the information about service.

I advised the Agents that I could not proceed unless satisfied of service of the hearing package on the Tenant and that the Application would be dismissed with leave to re-apply.

As stated in the Interim Decision, the Landlord was required to serve the hearing package on the Tenant within three days of receiving the Interim Decision.

Further, rules 3.1 and 3.5 of the Rules of Procedure state:

**3.1 Documents that must be served with the Notice of Dispute Resolution Proceeding Package**

The applicant must, within three days of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute Resolution;
- b) the Respondent Instructions for Dispute Resolution;
- c) the dispute resolution process fact sheet...provided by the Residential Tenancy Branch...

### **3.5 Proof of service required at the dispute resolution hearing**

At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure.

RTB notes show the Landlord was emailed the Interim Decision and hearing package on March 03, 2020 to serve on the Tenant by March 06, 2020.

As noted, the Interim Decision and hearing package could not have been served on the Tenant January 22, 2020 or February 12, 2020 as they were not sent out to the Landlord until March 03, 2020.

Given the Agents were not able to provide further information about service, I was not satisfied the Tenant was served with the hearing package. The Tenant did not attend the hearing. In the circumstances, the Application is dismissed with leave to re-apply. This decision does not extend any time limits set out in the *Residential Tenancy Act* (the "Act").

#### **Conclusion**

The Application is dismissed with leave to re-apply. This decision does not extend any time limits set out in the *Act*.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: April 28, 2020

---

Residential Tenancy Branch