



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      DRI, CNR, PSF, OLC, MNDCT, FFT

### Introduction

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

- cancellation of the 10 Day Notice to End Tenancy for Unpaid Rent, pursuant to section 46;
- a Monetary Order for damage or compensation under the *Act*, pursuant to section 67;
- an Order directing the landlord to comply with the *Act*, regulation or tenancy agreement, pursuant to section 62;
- an Order to provide services or facilities required by the tenancy agreement or law, pursuant to section 65; and
- disputation of a rent increase from the landlord, pursuant to section 42;
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Both parties agreed that the tenant moved out of the subject rental property. The tenant testified that she wished to continue with the monetary portion of her application.

### Preliminary Issue- Service

The tenant testified that she served the landlord with her application for dispute resolution via registered mail. No proof of service documentation was entered into evidence and the tenant was not able to provide me with the Canada Post tracking number. The landlord testified that he did not receive the tenant's application for dispute

resolution and only learned of today's hearing when the Residential Tenancy Branch emailed him about service deadlines.

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,...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]...*

Rule 6.6 of the Residential Tenancy Branch Rules of Procedure states that the standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

I find that the tenant has not proved that the landlord was served with her application for dispute resolution, in accordance with section 89 of the *Act*, because no proof of service documents were entered into evidence and the landlord denied receipt of the tenant's application. At the hearing, I advised the tenant that I was dismissing her application with leave to reapply.

I notified the tenant that if she wished to pursue this matter further, she would have to file a new application. I cautioned her to be prepared to prove service at the next hearing, as per section 89 of the *Act*. I notified the tenant that she could consult a lawyer for legal advice or an information officer at the Residential Tenancy Branch for information regarding the *Act* or the hearing process.

Conclusion

I dismiss the tenant's application to recover the \$100.00 filing fee without leave to reapply.

The remainder of the tenant's application 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: April 14, 2020

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Residential Tenancy Branch