



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNR

### Introduction

This hearing dealt with an application by the tenant under the *Residential Tenancy Act* (the Act) for cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (“Ten-Day Notice”) pursuant to section 46.

Although I left the teleconference hearing connection open until 9:49 A.M. to enable the landlord (respondent) to call into this teleconference hearing scheduled for 9:30 A.M., the landlord did not attend this hearing. The tenant (applicant) attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the tenant and I were the only ones who had called into this teleconference.

### Preliminary Issue – Service of the Tenant’s Application

The tenant affirmed he served the Notice of Hearing by regular mail. The tenant does not remember when he sent the regular mail and does not know if he included the evidence in the mail package. The tenant affirmed the landlord informed him he got the regular mail and would attend this hearing.

Section 89 of the Act states:

(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].

(emphasis added)

Residential Tenancy Branch Policy Guideline 12 states:

There are only three methods of service that may be used for these matters. These are:

i. Personal service

o Where a tenant is personally serving a landlord, the tenant must serve a document by leaving a copy of it with the landlord or an agent of the landlord.

o Where a landlord is personally serving a tenant, the landlord must serve by leaving a copy with the tenant. In cases where there are multiple tenants, the landlord must serve a copy to each co-tenant separately.

This requires physically handing a copy of the document to the person being served. If the person declines to take the document, it may be left near the person so long as the person serving informs the person being served of the nature of the document being left

near them.

ii. Registered Mail

o Where a tenant is serving a landlord by Registered Mail, the address for service must be where the landlord resides at the time of mailing or the address at which the landlord carries on business as a landlord. See "Service of documents on an incorporated company or society" in section 6 below or "Serving documents at the address at which the landlord carries on business as a landlord" in section 7 below.

o Where a landlord is serving a tenant by Registered Mail, the address for service must be where the tenant resides at the time of mailing, or the forwarding address provided by the tenant.

Registered Mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available.

iii. A Residential Tenancy Branch Order Regarding Service

o See "Orders for substituted service" in section 13 below and "Proof of service" in section 14 below.

Regular mail is not a permitted method of service for the tenant's application for dispute resolution. The landlord did not attend the hearing to confirm receipt of the tenant's application. Accordingly, I find that the tenant failed to prove service in accordance with

Section 89(1) of the Act and Policy Guideline 12. As such, the tenant's application is dismissed with leave to reapply.

Conclusion

The tenant's application is dismissed with leave to reapply. Leave to reapply is not extension of any applicable timeline.

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 01, 2020

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Residential Tenancy Branch