



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 ET

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for an order for an early termination of tenancy and an Order of Possession for an immediate and severe risk pursuant to section 56.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:37 a.m. to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. 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 landlord and I were the only ones who had called into this teleconference.

The landlord attended the hearing, represented by building manager, LG and portfolio manager, JV. The landlord LG testified she served the tenant with the Notice of Expedited Hearing package by posting it to the tenant's door. She filled out a proof of service document however she did not upload a copy of it for this hearing.

Preliminary Issue - Service

The landlord's application for an early end to tenancy, filed on July 10, 2020 is an application that falls under Rule 10 of the Residential Tenancy Branch Rules of Procedure [Expedited Hearings].

Expedited Hearings are considered urgent matters reserved for situations where urgency and fairness necessitate shorter service and response time limits. As such, proof of service of the Notice of Dispute Resolution Proceedings and the associated documents listed in Rule 10.3 must be proven by the filing of the proof of service document. Rule 10.9 states:

10.9 Proof of Service

An applicant **must provide proof of service** by submitting RTB 9 Proof of Service – Notice of a Dispute Resolution form one day after serving the Notice of Dispute Resolution Proceeding Package and at least two days before the hearing. Failure to do this may result in the application being dismissed or the hearing being rescheduled or adjourned to a later date.
[emphasis added]

This requirement is further emphasized in Residential Tenancy Branch Policy Guideline PG-51 [Expedited Hearings] which states:

*The director may require an applicant to confirm the method of service they will use to serve the application documents and evidence on the respondent before setting the application down for an expedited hearing. Once served, the applicant must complete an **#RTB – 9 Proof of Service: Notice of Expedited Hearing - Dispute Resolution Proceeding** form and submit it to the online intake system, the Residential Tenancy Branch, or a Service BC office at least two days before the hearing.*

Failure to serve the respondent as required or as ordered by the director, or to submit the #RTB – 9 Proof of Service form, may result in the application being dismissed or the hearing being adjourned to a later date.

The landlord has not filed proof of service satisfactory to me that the tenant has been properly served with the Notice of Dispute Resolution Proceedings Package. As such, the landlord's application for an early end to tenancy is dismissed with leave to reapply. I make no findings on the merits of the matter. Liberty to reapply is not an extension of any applicable limitation period.

Conclusion

The 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: July 24, 2020

Residential Tenancy Branch