



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

This matter was set for a conference call hearing at 9:30 a.m. on this date. The landlord filed two applications seeking an early end of the tenancy and an order of possession pursuant to section 56 of the Act, and the recovery of the filing fee pursuant to section 72 of the Act. The landlord participated in the hearing, the tenant did not. The landlord advised me that she did not serve the tenant with Notice of Hearing documents or application for this hearing. Section 89 of the Act addresses the issue before me as follows:

Special rules for certain documents

89 (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*];
- (f)by any other means of service provided for in the regulations.

(2)An application by a landlord under section 55 [*order of possession for the landlord*], 56 [*application for order ending tenancy early*] or 56.1 [*order of possession: tenancy frustrated*] must be given to the tenant in one of the following ways:

- (a)by leaving a copy with the tenant;
- (b)by sending a copy by registered mail to the address at which the tenant resides;
- (c)by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
- (d)by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;
- (e)as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*];
- (f)by any other means of service provided for in the regulations.

As the landlord did not serve the tenant with any papers to notify her of this hearing, I find that the tenant was not served the Notice of Hearing Documents in accordance with Section 89 of the Act and as a result, I dismiss the landlord'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: April 15, 2021

Residential Tenancy Branch