



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Sophia Homes Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was scheduled as an **expedited hearing** to deal with a landlord's application for an order to end the tenancy early and obtain an Order of Possession under section 56 of the Act.

The landlord's agent appeared on behalf of the landlord and was affirmed. The landlord's agent was also assisted by her son as the landlord's agent stated English was her second language.

There was no appearance on part of the tenant but the landlord's agent confirmed the tenant continues to reside in the rental unit.

Since the tenant did not appear for the hearing, I proceeded to explore service of hearing materials upon the tenant. The landlord's agent testified that she witnessed her son place the proceeding package, all required hearing documents, documentary evidence, and a USB stick containing video evidence in the tenant's mailbox on July 19, 2021. The landlord had also provided a *Proof of Service Notice of Expedited Hearing Dispute Resolution Proceeding #RTB- 9* ("Proof of Service") signed by the landlord's agent and her son as evidence they placed the hearing materials in the tenant's mailbox on July 19, 2021.

Where a respondent does not appear at the hearing, it is upon the applicant to prove the respondent was served in accordance with the requirements of the Act.

An expedited hearing set to deal with a landlord's application, such as this one, requires the applicant to serve the respondent with the hearing materials in a manner that complies with the Director's Standing Order. The Director's Standing Order, as

published on the Residential Tenancy Branch website, provides that the permissible methods for serving the landlord's hearing materials to the tenant are as follows:

- by leaving a copy with the tenant;
- by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
- by attaching a copy to a door or other conspicuous place at the address at which the person resides;
- by emailing a copy to an email address provided as an address for service by the tenant; or,
- by sending a copy by registered mail to the address at which the tenant resides

Leaving the hearing materials in the tenant's mailbox is not a permissible method for serving the documents under the Director's Standing Order. Also, page 1 of the Proof of Service lists the permissible methods of service and I note that placing the materials in the respondent's mailbox is not one of the permissible methods of service listed. The landlord had completed the "Special Details" box on page 2 of the Proof of Service; however, the Special Details instructions state the space is to be used where the landlord uses option 3 or 4 to service [leaving a copy with an adult who apparently resides with the tenant or attaching a copy the door or other conspicuous place]. The Special Details box is not an avenue to add another method of service that is not permissible by the Director.

In light of the above, I find the landlord failed to properly serve the tenant with the hearing materials. Given the improper service, I cannot give further consideration to the Application for Dispute Resolution before me and it is dismissed with leave to reapply.

Conclusion

The landlord's Application for Dispute Resolution is dismissed due to failure to serve the tenant in a permissible manner, 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: August 12, 2021

Residential Tenancy Branch