



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      **CNL, OLC, FFT**

### **Introduction**

This hearing dealt with an application by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- Cancellation of a Two Month Notice to End Tenancy for Landlord's use ("Two Month Notice") pursuant to section 49;
- An order requiring the landlord to comply with the Act pursuant to section 62;
- An order requiring the landlord to reimburse the tenant for the filing fee pursuant to section 72.

The tenant attended with the advocate IC ("the tenant"). The tenant was given the opportunity to make submissions as well as present affirmed testimony and written evidence. The hearing process was explained, and an opportunity was given to ask questions about the hearing process.

The landlord did not appear at the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional twenty minutes to allow the landlord the opportunity to call. The teleconference system indicated only the tenant and I had called into the hearing. I confirmed the correct call-in number and participant code for the landlord had been provided.

The tenant seeks compensation of one month's rent further to the service of a Two Month Notice by the landlord.

### ***Service upon Landlord***

When a landlord does not attend at the hearing in a case like this, the tenant must prove the landlord was served in accordance with the Act.

Accordingly, I explored service by the tenant of the Application for Dispute Resolution and Notice of Hearing.

The tenant testified the parties primarily communicated by text or email. However, the tenant submitted a one-page tenancy agreement which does not provide an email service address for the landlord.

The tenant testified they sent the documents by email to the landlord on June 21, 2021; a copy of the email was submitted.

The tenant submitted an undated copy of the landlord's reply which does not clearly state the landlord received the Notice of Hearing and Application for Dispute Resolution.

Section 89 sets out how service is to take place. The tenant has not served the documents in one of the ways allowed under the Act.

I therefore find the tenant has not met the burden of proof that the documents were served in a manner which is compliant with the Act.

As I have found the landlord has not been served, the tenant's application is dismissed with leave to reapply. As the tenant has been unsuccessful in the application, I dismiss the application for reimbursement of the filing fee without leave to reapply.

### Conclusion

The tenant's application is dismissed with leave to reapply except for the application for reimbursement of the filing fee which is dismissed without 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: October 04, 2021

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Residential Tenancy Branch