



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR-DR, MNR-DR, FFL

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 33 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

This hearing began at 9:30 a.m. and ended at 10:03 a.m. I monitored the teleconference line throughout this hearing. 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 people who called into this teleconference.

The landlord stated that she owns the rental unit. She confirmed the rental unit address during this hearing. She provided her email address for me to send a copy of my decision to her after this hearing.

I informed the landlord that recording of this hearing was not permitted by anyone, as per Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* ("Rules"). The landlord affirmed, under oath, that she would not record this hearing.

I explained the hearing process to the landlord. I informed her that I could not provide legal advice to her. She had an opportunity to ask questions. She did not make any adjournment or accommodation requests.

#### Preliminary Issue – Service of Landlord's Application

Throughout this hearing, the landlord was given extra and ample time of 33 minutes to look through her documents. She stated that she was not prepared to provide service information and she had a lot of paperwork and registered mail receipts to look through.

This hearing was originally scheduled as a direct request proceeding, which is a non-participatory hearing. The direct request proceeding is based on the landlord's paper application only, not any submissions from the tenant. An "interim decision," dated September 24, 2021, was issued by an Adjudicator for the direct request proceeding. The interim decision adjourned the direct request proceeding to this participatory hearing because the landlord did not provide a written tenancy agreement, as required.

The landlord did not provide a written tenancy agreement after the above interim decision was issued to her, she only provided a half-page written document, explaining this tenancy.

The landlord was required to serve the tenant with a copy of the interim decision, the notice of reconvened hearing, and all other required documents, within three days of receiving it, as outlined in the interim decision itself.

The landlord stated that she was not sure when she received the interim decision from the RTB. She guessed different dates in July, August, September, October, and November 2021, as to when she served the above documents to the tenant. She repeatedly asked me when she filed this application and when she could have served it. I informed her that I did not know when she served the above documents to the tenant because I was not present or a party to her application.

I informed the landlord that her original direct request application was filed on August 24, 2021. The notice of hearing for this application is dated September 24, 2021.

The landlord finally claimed that she served the tenant with the above documents on September 25, 2021, by way of registered mail. She provided a Canada Post receipt and confirmed the tracking number verbally during this hearing. She said that she sent the mail to a PO box address that was "always" the mailing address for this rental unit,

but she claimed that there was no written documentation, including a tenancy agreement, that indicates this mailing address on file. She explained that the above mail was returned to her as the sender.

The landlord stated that she served further evidence to the tenant by way of registered mail. She claimed that it was done in September, October or November 2021. She then maintained that she served the tenant on November 11, 2021. She provided a Canada Post receipt and confirmed the tracking number verbally during this hearing. She explained that the mail was on its way back to sender. I informed her that this evidence would be deemed received by the tenant on November 16, 2021, five days after its registered mailing, as per sections 88 and 90 of the *Act*. I notified her that this evidence was deemed received late by the tenant, less than 14 days prior to this hearing, not including the service or hearing dates, contrary to Rule 3.14 of the *RTB Rules*, so I could not consider it at this hearing.

When I asked the landlord how she served the original application for direct request proceeding to the tenant, she said that she did not know. She asked me whether she could have served it in July, August, September, October, or November 2021. I informed her that I did not know when she served the above documents to the tenant because I was not present or a party to her application. She claimed that she did not know when she served the original application to the tenant and she could not find the service information, despite being given 33 minutes during this hearing, to look for it.

I find that the landlord did not serve the tenant with the landlord's original direct request application, interim decision, notice of hearing, or documentary evidence, as required by sections 88 and 89 of the *Act* and Rule 3.1 of the *RTB Rules*. The landlord did not provide any service date or method for her original direct request application. The landlord provided multiple service dates for the interim decision and notice of hearing. The landlord provided a late service date for evidence of November 11, 2021. The landlord did not provide documentary proof of the PO Box address that she said was used as a mailing address for the rental unit. The tenant did not attend this hearing to confirm service of the above documents.

The landlord was given ample time of 33 minutes during this hearing in order to look up information and to provide the correct dates and methods of service.

The landlord had ample time from filing this application on August 24, 2021 to this hearing date of November 26, 2021, a period of over three months, to provide the above information.

I notified the landlord that her application was dismissed with leave to reapply, except for the \$100.00 filing fee. I informed her that she could file a new application and pay a new filing fee, if she wants to pursue this matter in the future. I informed her that she could hire a lawyer to obtain legal advice. I notified her that she could speak to an RTB information officer for information only, not legal advice. I informed her that she could have an agent and/or advocate assist her, including accompanying her to a hearing or appearing and speaking on her behalf at a hearing. I notified her that all of the above information, as well as all the applicable laws and Rules, were available on the online RTB website, the landlord-tenant fact sheets, and the applicant instructions that were provided to her when she filed this application. The landlord confirmed her understanding of same.

### Conclusion

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the landlord's 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: November 26, 2021

---

Residential Tenancy Branch