



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

The Landlord files for an order under s. 56 of the *Residential Tenancy Act* (the “Act”) for the early termination of the tenancy.

A.D. appeared as agent for the Landlord. The Tenant did not attend the hearing, nor did someone attend on their behalf. Pursuant to Rule 7.1 of the Rules of Procedure, the hearing began as scheduled in the Notice of Dispute Resolution. As the Tenant failed to attend the hearing, it was conducted without their participation as permitted by Rule 7.3 of the Rules of Procedure.

A.D. affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. A.D. confirmed that she was not recording the hearing.

Preliminary Issue – Service of the Landlord’s application materials

A.D. advised that the Tenant was served with the Notice of Dispute Resolution and the Landlord’s evidence by way of registered mail sent on January 7, 2021 to the Tenant’s mailing address at the residential property.

During the hearing, A.D. advised that the Tenant’s rental unit was no longer habitable due to a fire they say was caused by the Tenant on November 26, 2021 and that the Tenant has not resided in the rental unit since the fire. A.D. clarified that the Tenant has a mailbox at the residential property for which he still has access and that the registered mail was sent to this mailbox. A.D. further advised that the Landlord has not been in direct communication with the Tenant since November 26, 2021 but advised that they

have communicated with a local clinic frequented by the Tenant to have them tell the Tenant he had mail at the residential property.

Section 89(2) is clear that service of application materials sent by way of registered mail must be sent to the address at which the tenant resides. Here, the Landlord acknowledges that the Tenant does not reside at the mailing address and further acknowledges that Tenant, though having a mailbox, has not picked up his mail.

I am cognizant that the Landlord's application pertains to ending a tenancy without issuing a notice as provided for under s. 47. Essentially, the only means by which the Tenant would know that the tenancy may end at all would be by receiving the Notice of Dispute Resolution. Based on the Landlord's submissions, I am not satisfied that the Notice of Dispute Resolution has been served in accordance with the *Act* as the registered mail was sent to an address in which the Tenant no longer resides.

As the Landlord has failed to demonstrate service of the Notice of Dispute Resolution as required by Rule 10.9 of the Rules of Procedure, I dismiss the Landlord's application with leave to reapply.

I make no findings with respect to the substantive matters raised in the Landlord's application. This dismissal does not extend any time limitation that may apply under the *Act*.

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: January 27, 2022

Residential Tenancy Branch