



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR-MT, OLC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to be allowed more time to dispute a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and to have the landlord comply with the Act.

The tenant and the tenant's advocate attended the hearing. As the landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The tenant's advocate testified the Application for Dispute Resolution and Notice of Hearing put in the landlord's mailbox by the tenant.

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.

In this case, the landlord was not served in accordance with section 89 of the Act, as leaving the Application for Dispute Resolution in a mailbox is not an approved method under section 89 of the Act. I cannot find the landlord was sufficiently served to proceed with the tenant's application. Therefore, I must dismiss the tenant's application due to insufficient service. I have not granted the tenant leave to reapply as the any future application would be barred from being heard as it would be past the effective date in the notice to end tenancy.

I have not considered whether or not the landlord is entitled to an order of possession or a monetary order pursuant to section 55 of the Act. As I do not have a full copy of the notice to end tenancy before me to ensure it complies with section 52 of the Act.

The advocate for the tenant stated that they have been trying to obtain information from the landlord regarding what rent is owed, if any, as the landlord automatically receives the tenant's rent. The advocate stated that the tenant was also being charged for a stove, which is the landlord's responsibility and cannot be considered rent. The advocate stated that the landlord has also accepted rent after the effective date of the notice to end tenancy and did not issue receipts for use and occupancy and the tenancy may have been reinstated.

I would suggest to the landlord that they should contact the tenant's advocate to resolve any of the issues that were raised.

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