



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

This hearing dealt with the Landlord's Application filed under the *Residential Tenancy Act* (the "Act") for an early end of tenancy pursuant to section 56 of the *Act*, and the Landlord's request to recover the filing fee paid for this application. The matter was set for a conference call.

The Landlord attended the hearing and was affirmed to be truthful in their testimony. As the Tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. Section 59 of the *Act* and 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 Landlord testified the Application for Dispute Resolution and Notice of Hearing had been served to the Tenants in person. The Landlord was asked to testify to the date of service and present their evidence to prove service of these documents. The Landlord testified they did not know the date of service as they did not know that they would be asked this question during the hearing. Section 3.5 of the Residential Tenancy Branch Rules of procedure state the following:

#### **"3.5 Proof of service required at the dispute resolution hearing**

At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure.'

The Landlord was provided with additional time to arrange their notes and their testimony during these proceedings. However, the Landlord remained unable to accurately testify or to present their documentary evidence of the details for the service

of the Notice of Dispute Resolution Hearing documentation to this Arbitrator. As the Landlord could not provide accurate testimony of the service of these documents, I find that the Tenants have not been duly served the notification of this hearing as required, pursuant to section 59 of the *Act*.

Therefore, I dismiss the Landlord application with leave to reapply. This decision does not extend any legislated timelines pursuant to the *Act*.

### Conclusion

I dismiss the Landlord's application 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: February 4, 2022

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Residential Tenancy Branch