



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **ARI-C**

### Introduction

This hearing dealt with the landlord's application pursuant to section 43 of the *Residential Tenancy Act* (the "Act") for authorization to increase the rent above the statutory amounts.

The tenants did not attend this hearing which lasted approximately 20 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The landlord attended, assisted by a property owner and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord was made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and they testified that they were not making any recordings.

The landlord testified that they had served the tenants personally with the notice of hearing and evidence. The landlord was unable to provide that date that they served the tenants stating it was "many months ago". The landlord did not submit a signed Proof of Service form nor did they provide any documentary materials to support their testimony.

## Analysis

Section 89(1) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

*89(1) An application for dispute resolution,...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 document]...*

Residential Tenancy Policy Guideline 12 further provides that:

Where the respondent does not appear at a dispute resolution hearing, the applicant must be prepared to prove service of the notice of hearing package...

The landlord provided vague testimony that they had served the tenants but was unable to provide the date when service was enacted. The landlord submitted no Proof of Service forms nor any documentary evidence in support of their claim that they served the tenants.

Based on the paucity of information provided by the landlord I am unable to determine, on a balance of probabilities, that each of the tenants has been properly served in accordance with the *Act* or at all.

Consequently, I dismiss the landlord's application with leave to reapply.

Conclusion

The landlord's application is dismissed in its entirety with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

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 22, 2022

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Residential Tenancy Branch