



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes PFR

Introduction

On January 20, 2022, the Landlord submitted an Application for Dispute Resolution under section 49.2(1) of the *Residential Tenancy Act* ("the Act") requesting an order ending the tenancy and for an order of possession for the rental unit in order to perform renovations or repairs that require the rental unit to be vacant. The matter was set for a conference call hearing.

While the landlord attended the hearing by way of conference call, the tenant did not. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord and I were the only ones who had called into this teleconference.

Preliminary Issue - Service of the Landlord's Application for Dispute Resolution

The landlord testified that they had served the tenant with their application and notice of hearing by way of registered mail. The landlord testified that they were unable to provide the specific tracking information or details about how and when the tenant was served.

Section 89 of the *Act* establishes the following special rules for service of documents.

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].

The tenant did not attend the hearing to confirm that they were aware of the hearing date and time, or were provided with the calling instructions to attend the teleconference call. The tenant did not provide any written evidence for this hearing, nor did they provide any indication that they were aware of the scheduled hearing. Although the landlord's testimony was that they had served the tenant with the hearing documents, and that the tenant was well aware of the scheduled hearing and landlord's application, the landlord did not provide any proof to confirm that this is the case. Neither the landlord nor the tenant provided sufficient evidence to support that the parties had entered into any mutual agreement or settlement in relation to this matter. I find that the landlord has failed to support that their application package was served in accordance with section 89 of the *Act*. I therefore 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: April 25, 2022

Residential Tenancy Branch