



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a Monetary Order for damage, pursuant to section 67; and
- authorization to recover the filing fee from the tenant, pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 1:41 p.m. in order to enable the tenant to call into this teleconference hearing scheduled for 1:30 p.m. The landlord's agent (the "agent") attended the hearing and 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. I also confirmed from the teleconference system that the agent and I were the only ones who had called into this teleconference.

Preliminary Issue- Service

The agent testified that the landlord's application for dispute resolution was posted on the tenant's door. The landlord applied for substituted service; however, the landlord's application was dismissed in a substituted service decision dated June 21, 2022.

Section 89(1) of the *Act* states that 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.

I find that the tenant was not served in accordance with section 89 of the *Act*. The landlord's application is therefore dismissed with leave to reapply for failure to serve in accordance with section 89 of the *Act*.

The agent was advised that if the landlord wishes to pursue the claims made in this application for dispute resolution, the landlord will have to file a new application for dispute resolution and serve the tenant in accordance with section 89 of the *Act*.

Conclusion

The landlord's application to recover the filing fee is dismissed without leave to reapply. The remainder of the landlord's application is dismissed 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: August 23, 2022

Residential Tenancy Branch