



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPL, FFL

### Introduction

The Landlord filed an Application for Dispute Resolution (the “Application”) on September 19, 2022 seeking an order of possession, and the Application filing fee. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on February 3, 2023.

The Tenant who attended the call stated they did not receive notice from the Landlord directly about this hearing. They received a courtesy reminder about the hearing from the Residential Tenancy Branch on January 20, 2023.

The *Residential Tenancy Branch Rules of Procedures*, Rule 3, provides the rules on serving the application and hearing information. This is to ensure the objective of a fair, efficient, and consistent process for resolving disputes. Rule 3.1 sets the timeline of initial service after an application:

The applicant must, **within three days** of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the Notice of Dispute Resolution Proceeding . . .
- b) the Respondent Instructions for Dispute Resolution;
- c) the dispute resolution process fact sheet (RTB-114) . . . provided by the Residential Tenancy Branch; and
- d) any other evidence submitted to the Residential Tenancy Branch . . .

One form that is provided to the parties in this process is the *Residential Tenancies Fact Sheet – The Dispute Resolution Process* (RTB-114). This form sets out this three-day timeline. The Residential Tenancy Branch sent this document to the Landlord on October 3, 2022. That email message provided the instruction to the Landlord to serve the Notice of Dispute Resolution Proceeding to the Tenant “no later than Oct 6, 2022.”

Additionally, the *Act* s. 59(3) sets out that “a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it. . .”

I conclude the Landlord did not serve the Notice of Dispute Resolution Proceeding to the Tenants in line with the *Rules of Procedure* and the *Act*. This prejudiced the Tenants as the respondent in this hearing. For this reason, I dismiss the Landlord’s Application, with leave to reapply.

### Conclusion

For the reasons outlined above, I dismiss the Landlord’s Application, with leave to reapply. I dismiss the Landlord’s claim for compensation of the Application fee without leave to reapply. As a result of this conclusion, there is no order of possession to the Landlord and the tenancy shall continue.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: February 3, 2023

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Residential Tenancy Branch