



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

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

- a monetary order for the cost of emergency repairs to the rental unit pursuant to section 33;
- a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65.

The hearing was conducted by conference call. The landlord did not attend the hearing.

Preliminary Issue: Service of Tenant's Application

When asked about service of the Application for Dispute Resolution and Notice of Hearing (the "Application") on the landlord, the tenant initially stated that it was served online on October 13, 2022. The tenant was advised that her application was filed online with the Residential Tenancy Branch (the "RTB") on October 13, 2022 and it is not possible to serve the landlord online. The tenant then stated that there is a no contact order with the landlord and she tried to advise the RTB of such. When advised that she would still be required to serve the landlord in any method permitted under the Act, the tenant then stated she had someone serve the landlord and that this was done on October 30, 2022 or November 1, 2022. The tenant was not able to provide any specifics as to whether the landlord was served in person or if the Application was posted on the door etc. The tenant did not submit any proof of service document or any other evidence in support of the Application.

Section 89 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]...*

As the tenant was not able to provide any specifics in regards to service or a witnessed proof of service document, I am not satisfied the landlord has been served with the tenant's Application in a manner required under section 89 of the *Act*.

Conclusion

I dismiss the tenant's application 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 24, 2023

Residential Tenancy Branch