



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BURNEY RIDGE PROPERTIES  
LTD and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC OLC FF

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. The Tenant applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the *Act*).

The Tenant attended the hearing. However, the Landlord did not. The Tenant testified that they sent the Notice of Hearing and evidence to the Landlord by email, sometime in November 2022.

The Tenant stated that she never had any agreement with the Landlord, in writing, to serve each other via email.

I note the following portion of the *Act* regarding how a Tenant must serve the Landlord with this application package:

**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];*  
*(f) by any other means of service provided for in the regulations.*

The Tenant did not serve in any of the above methods, and only sent the Notice of Hearing by email. There is no evidence that the Landlord received this email. I note the following Policy Guideline #12 with respect to the service of documents:

*When a party cannot be served by any of the methods permitted under the Legislation, the Residential Tenancy Branch may order a substituted form of service (see "Orders for substituted service" in section 13 below).*

*At any time, a tenant or landlord may provide an email address for service purposes. By providing an email address, the person agrees that important documents pertaining to their tenancy may be served on them by email.*

*[...]*

#### **Email service**

*o To serve documents by email, the party being served must have provided an email address specifically for the purposes of being served documents.*  
*If there is any doubt about whether an email address has been given for the purposes of giving or serving documents, an alternate form of service should be used, or an order for substituted service obtained.*

In order for the Tenant to serve the Landlord with this Notice of Hearing and evidence via email, the Tenant would have had to obtain an Order for Substituted service prior to this hearing, permitting him to serve the Landlord in a manner not specifically laid out under section 89 (1) above, or the Tenant could have sent this documentation by email if there was sufficient evidence to show the Landlord specifically provided his email address to the Tenant as his address for service. Typically this would be done expressly, and in writing. No Substituted Service Order was applied for, and there is no evidence to show the Landlord specifically gave the Tenant his email address for service purposes.

Ultimately, I find there is insufficient evidence that the Landlord was served in accordance with any of the allowable methods of service under section 89 of the Act. Although email service is acceptable in some limited circumstances (by substituted service order, or through a separate agreement to serve via email), I note the Tenant

has not sufficiently met those criteria, such that I could find she has properly served the Landlord with this Notice of Hearing.

Since the Notice of Dispute Resolution has not been sufficiently served, I dismiss the Tenant's application, with leave to reapply. However, this does not extend any time limits under the Act.

### Conclusion

The Tenant's application is dismissed, with leave.

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 11, 2023

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Residential Tenancy Branch