



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

A matter regarding PROSPERO REALTY  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes      RP

### Introduction and Preliminary Matters

This hearing dealt with the tenants' Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for regular repairs to the unit, site or property.

The tenant and two landlord representatives attended the teleconference hearing. The parties were affirmed. The landlord submitted a document and MD for the landlord confirmed that the landlord had not been served with the Notice of Dispute Resolution (application) or any documentary evidence. As a result, the tenant was asked how the landlord was served.

The tenant testified that they served a landlord agent via email. The tenant was asked if they had permission to serve the landlord via email and the tenant claimed that they had an email from SK confirming such. The tenant failed to submit an email from SK confirming that service by email was approved by the landlord.

SH and MD stated that they only became aware of the application by contacting the RTB and even then only had one day to get evidence in.

Section 43(2) of the *Residential Tenancy Regulation* applies and states:

#### **Other means of giving or serving documents**

43(2) For the purposes of section 89 (1) (f) [*special rules for certain documents*] of the Act, the documents described in section 89 (1) of the Act may be given to a person **by emailing a copy to an email address provided as an address for service by the person.**

[emphasis added]

I find the tenant failed to present documentary evidence to support that the respondent landlord provided their email address as a method for service. Both parties have the right to a fair hearing. The landlord would not be aware of the hearing and would not have the timeline provided under the Act to properly respond without having received the Notice of Hearing/application. Therefore, **I dismiss** the tenant's application **with leave to reapply** as I am not satisfied that the landlord has been sufficiently served with the Notice of Hearing and application in a manner provided for under the Act. I note this decision does not extend any applicable time limits under the Act.

As the filing fee was already waived, it is not granted.

### Conclusion

The tenant's application is dismissed with leave to reapply due to a service issue.

This decision does not extend any applicable time limits under the Act.

This decision will be emailed to the tenant and to the landlord's email address provided at the time of the hearing.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: March 28, 2023

---

Residential Tenancy Branch