



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

The Landlord filed an Application for Dispute Resolution on February 24, 2023, seeking an order for an early termination of the tenancy, and reimbursement of the Application filing fee. This is on the basis that the Tenant poses an immediate and severe risk to the property, other occupants, or the Landlord. The matter proceeded by way of a hearing pursuant to s. 74(2) on March 14, 2023. In the conference call hearing I explained the process and provided the attending party – the Landlord -- the opportunity to ask questions.

The Landlord attended the hearing; the Tenant did not attend.

### Preliminary Issue – service of the Notice of Dispute Resolution Proceeding

The Landlord confirmed they did not provide the Notice of Dispute Resolution Proceeding to the Tenant upon receiving that document from the Residential Tenancy Branch on February 28, 2023. The Landlord recalled only receiving the notice of this hearing the day prior to the hearing.

The *Act* s. 59 contains the provisions for starting proceedings in a dispute resolution. Subsection (3) states: “. . .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, or within a different period specified by the director.”

The *Act* s. 89 gives the rules for service of the application for dispute resolution. This is by leaving a copy with the person or their agent or sending a copy via registered mail.

Additionally, the Rules of Procedure that are crafted to ensure a fair process; these specify the documents to be served by the applicant (here, the Landlord) to the respondent (here, the Tenant). These are: the Notice of Dispute Resolution Proceeding provided when applying; the

Respondent Instructions for Dispute Resolution; a process fact sheet; and other evidence submitted by the applicant.

The Rules of Procedure also require the Applicant to provide evidence to the Residential Tenancy Branch and the Respondent party in line with administrative fairness. I note the Landlord provided no evidence to the Residential Tenancy Branch for the purpose of this hearing on February 27, 2023.

The Landlord did not provide a copy of the Notice of Dispute Resolution Proceeding – that document that is generated when a person applies for dispute resolution – to the Tenant. The *Act* requires proper service in line with administrative fairness in which a party's legal rights and obligations are challenged. I dismiss the Landlord's Application for Dispute Resolution for this reason; however, the Landlord has leave to reapply on these issues, and any others that they feel apply to the current situation in this tenancy.

The Landlord explained the problem very basically. The Landlord has a right to end a tenancy for the reasons they explained; however, a prior warning in writing to the Tenant is appropriate and necessary in these circumstances. I urge the Landlord to contact the Residential Tenancy Branch so they are informed of their rights and obligations as a Landlord, as well as the Tenant's rights and obligations.

### Conclusion

I dismiss the Landlord's application for an order of possession, with leave to reapply. This decision does not impact any deadlines as set forth in the *Act*.

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: March 14, 2023

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Residential Tenancy Branch