



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Introduction**

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

- a monetary order for damage to the rental unit pursuant to section 67;
- a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover her filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. Both named parties attended the hearing.

### **Preliminary Issue: Service of Landlord's Application**

At the outset of the hearing, the tenant testified that he only became aware of the hearing after receiving an e-mail from the Residential Tenancy Branch 4 days prior to the hearing. The tenant testified that he was not served anything by the landlord.

The landlord testified that she served the application for dispute resolution package by sending a copy by registered mail on September 7, 2022. The landlord testified she obtained the address from a collection agency as the tenant did not provide a forwarding address. The landlord did not provide any documentation to show how this address was obtained or whether it was a current address of the tenant. The tenant stated that he does not reside at the address provided by the landlord.

The tenant refused to provide a forwarding address or a current e-mail address to the landlord in the hearing.

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 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 document]...*

In addition to the above methods of service, section 43 of the *Residential Tenancy Regulation* allows for service to an email address provided as an address for service by the person.

I find the landlord has provided insufficient evidence that the tenant has been served with the landlord's application for dispute resolution in a manner required under section 89 of the *Act*.

### Conclusion

I dismiss the landlord'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: May 25, 2023

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Residential Tenancy Branch