



# 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:

- cancellation of a Two Month Notice to End Tenancy For Landlord's Use of Rental Property, pursuant to section 49 (the Two Month Notice);
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

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

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

The tenant's agent testified that a copy of the Application package and Notice of Dispute Resolution Proceeding was not served on the landlord and that she was not aware that she was required to do so.

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]...*

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

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.

The information on service of the Application package would have been provided by the Residential Tenancy Branch by e-mail at the same time as providing applicant with a copy of the Notice of Dispute Resolution.

### 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: May 11, 2023

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Residential Tenancy Branch