



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      OPR-DR, MNR-DR, FFL

### Introduction

Under section 58 of the Residential Tenancy Act (the “Act”), this hearing dealt with the landlord’s April 7, 2023, application to the Residential Tenancy Branch for:

- (i) an order of possession on an undisputed notice to end tenancy (the “Notice”) under section 55(2)(b) of the Act;
- (ii) a monetary order for unpaid rent under section 67 of the Act; and
- (iii) authorization to recover the cost of the filing fee under section 72 of the Act.

The landlord attended the hearing. No one dialled in on behalf of the tenant during the hearing, which lasted from 1:30 P.M. to 2:18 P.M. The landlord testified under oath that the landlord served a *Notice of Dispute Resolution Proceeding* on the tenant by registered mail. There is proof of tracking information submitted into evidence. It is my finding that the tenant was served with the required notice in compliance with the Act.

### Issues

1. Is the landlord entitled to an order of possession?
2. Is the landlord entitled to recover the cost of the filing fee?

### Background and Evidence

In reaching this decision, I have considered all relevant evidence that complied with the *Rules of Procedure*. Only the necessary oral and documentary evidence that helped resolve the issues of the dispute and explain the decision is included below.

The tenancy began May 1, 2022. Rent is \$1,520.00 due on the first day of the month.

The landlord served the Notice on March 20, 2023 by email. Page two of the Notice indicates that the tenant did not pay rent in the amount of \$1,300.00 that was due on March 20, 2023. All pages of the Notice were served and submitted into evidence.

The landlord affirmed that:

- the tenant never provided an email address to the landlord for service purposes.
- the landlord sent the Notice to the email address that the tenant uses to pay rent.
- the landlord and tenant usually communicate via text messages. Only the Notice was sent via email.
- the landlord did not receive a reply or acknowledgement from the tenant following sending the Notice to the tenant's email.

### Analysis

Under section 43 of the Residential Tenancy Regulation, a notice to end tenancy may be served on a tenant by emailing a copy to an address provided as an address for service by that tenant.

The landlord's evidence was that:

- the tenant never provided an email address to the landlord for service purposes.
- the landlord and tenant usually communicate via text messages. Only the Notice was sent via email.
- the landlord did not receive a reply or acknowledgement from the tenant following sending the Notice to the tenant's email.

For the above reasons, I do not find that email is an acceptable method of serving the tenant. Nor was there any evidence that the tenant did in fact receive the Notice via email. Therefore, I find that the tenant was not validly served with the Notice. As a result, I am cancelling the Notice.

### Conclusion

The application is dismissed without leave to reapply. The tenancy shall continue until it is ended in accordance with the Act.

The landlord is reminded that email is only an acceptable method of service of documents if the tenant purposely provided an email address as an address for service.

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 31, 2023

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Residential Tenancy Branch