



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes ARI-C

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking remedy under the *Residential Tenancy Act* (Act) for an additional rent increase for capital expenditure pursuant to section 23.1 of the Regulation.

The landlord attended the hearing and was affirmed.

No one attended the hearing for the tenant.

As the tenant failed to attend, service of the landlord's application for dispute resolution, evidence, and notice of hearing (proceeding package) was considered.

The landlord stated their agent served the tenant by email and/or registered mail. However, the agent did not attend the hearing or provide a written statement giving details about the service of documents. Additionally, no other proof was provided, such as a Canada Post registered mail receipt, the email proving the application was sent to the tenant, or proof the tenant authorized their email address to be used as a way to receive documents.

Analysis and Conclusion

Section 59(3) of the Act requires that 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.

Section 89(1) of the Act requires that an application for dispute resolution 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 documents*];
- (f) by any other means of service provided for in the regulations.

Under section 43(2) of the Residential Tenancy Regulations, documents may be given to a person by emailing a copy to an email address provided as an address for service by that person.

Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 3.5 states the following:

3.5 Proof of service required at the dispute resolution hearing:

At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure.

For these reasons, I find the landlord submitted insufficient evidence that their proceeding package was served to the tenant according to any of the above noted requirements of section 89(1) of the Act.

As a result, I dismiss the landlord's application, **with leave to reapply**, due to service issues as described above.

I make no findings on the merits of the matter. 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: January 11, 2024

Residential Tenancy Branch