



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNC, OLC

Introduction

This hearing was scheduled to convene at 9:30 a.m. on October 15, 2024 concerning an application made by the tenant seeking an order cancelling a One Month Notice to End Tenancy for Cause and for an order that the landlord comply with the *Residential Tenancy Act*, regulation or tenancy agreement.

The tenant attended the hearing, however the line remained open while the telephone system was monitored for in excess of 10 minutes and no one for the landlord joined the call.

The tenant submitted that the landlord was served with the Application for Dispute Resolution and Notice of Dispute Resolution Proceeding on September 7, 2024 by leaving it at the landlord's door.

The *Residential Tenancy Act* specifies how an Application for Dispute Resolution and Notice of Dispute Resolution Proceeding must be served:

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(e) [Repealed 2023-47-98.]

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

The regulations specify that service by email is permitted if the parties had previously agreed to service of legal documents in that manner.

Since the tenant has not served the landlord in accordance with the *Act*, I dismiss the tenant's application with leave to reapply. I have made no findings of fact or law with respect to the merits of this matter.

The law also states that where I dismiss a tenant's application seeking to cancel a notice to end the tenancy given by a landlord, I must grant an order of possession in favour of the landlord, so long as the notice given is in the approved form. The tenant has provided a copy of 3 pages of the 4-page notice, and therefore, I cannot be satisfied that the notice given was in the approved form.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed with leave to reapply.

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: October 15, 2024

Residential Tenancy Branch