



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPRM-DR, FFL

A previous Decision was rendered on October 18, 2018 regarding this tenancy. The file numbers have been included on the front page of this Decision for ease of reference. In this Decision, the Arbitrator dismissed both parties' applications on the basis that neither party was served. The Arbitrator confirmed the parties' respective service addresses and in the decision indicated, "the tenant confirmed that the landlord could serve him at the North Vancouver address he provided at the hearing."

### Introduction

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

- an order of possession for unpaid rent, pursuant to section 55; and
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not participate in the conference call hearing, which lasted approximately 45 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord's application was originally initiated as a direct request proceeding, which is a non-participatory hearing. In an interim decision issued on September 21, 2018, an adjudicator determined that the matter was not appropriate for a non-participatory hearing and ordered that a participatory hearing take place. The interim decision directed the landlord to serve the tenant with a copy of the interim decision and a Notice of Reconvened Hearing (the "Hearing Package").

At the outset of the hearing the landlord testified that the tenant had vacated the unit by September 20, 2018. The landlord confirmed that the tenant did not provide a forwarding address. The landlord testified that on September 27, 2018 he forwarded the Hearing Package to the tenant at an address obtained from the tenant's signature block

on his email correspondence. The landlord testified that the address provided by the tenant during the October 18, 2018 hearing is the same address indicated in the tenant's signature block. Therefore the landlord contends he should be granted permission to use this address for service of the Hearing Package.

Section 89 of the *Act* establishes that when a landlord serves an application for dispute resolution in relation to a monetary claim it must be served by leaving it directly with the tenant, by registered mail to the address at which the tenant resides, to a forwarding address provided by the tenant or as ordered by the director.

A party having difficulty serving documents using the options under the *Act* may apply for a substituted service order to allow the document to be served in a different way. In this case, the landlord did not apply for a substitute service order in September after the tenant's vacancy; rather he took it upon himself to use an address he found in corresponding emails. The October 18, 2018 hearing has no bearing on service of an application made September 27, 2018. In any event, I find the October 18, 2018 decision fails to contain an order by the director concerning service. In the absence of an application for substituted service, I find that the landlord has not served the Hearing Package for this dispute resolution to the tenant as required under the *Act*.

### Conclusion

I dismiss the landlord's entire application with leave to re-apply.

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: November 06, 2018

---

Residential Tenancy Branch