



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BETHANY COURT HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the Act") for an early end to this tenancy and an Order of Possession pursuant to section 56; and authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, although I waited until 11:19 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord's agent, RF, along with the resident manager, RB, attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

Preliminary Issue - Service of the Application for Dispute Resolution

The landlord's agent RF testified that the tenant was served on June 6, 2019 by way of posting the package on the tenant's door. The landlord provided proof of service that the tenant was served by way of posting the package on the tenant's door. RF also testified that the tenant's social worker was served on June 13, 2019 with the same package. The tenant did not attend this hearing.

Section 89(1) 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;...*

I have considered the methods of service used by the landlord, and in light of the fact that the tenant did not attend the hearing to confirm service, I find that I am unable to determine whether the tenant had received the package or not. Posting an application for dispute resolution on a door or serving the tenant through another party are not considered acceptable forms of service under section 89(1) of the *Act*. An exception to the service provisions of sections 88 and 89 of the *Act* applies for expedited hearings as set by the director under Rule 10 of the RTB Rules of Procedure.

Under Rule 10 of the rules of procedure, the director may set an application for dispute resolution down for an expedited hearing meaning it will be heard on short notice to the respondent. I have reviewed the file, and I find that this matter was not set as an expedited hearing under Rule 10 of the RTB Rules of Procedure. Accordingly, section 89 of the *Act* applies. As the tenant was not served in a manner that complies with section 89 of the *Act*, the landlord's application for an early end of this tenancy is dismissed with leave to reapply.

As the filing fee is awarded to the successful party after a hearing is held, the landlord's application for recovery of the filing fee is dismissed without leave to reapply.

Conclusion

I dismiss the landlord's application for an early end of this tenancy with leave to reapply.

The landlord's application to recover the filing fee is dismissed without 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: June 26, 2019

Residential Tenancy Branch