



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

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

- an early end to 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, which lasted approximately 11 minutes. The landlord's agent ("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 confirmed that he had permission to represent the landlord named in this application at this hearing.

The landlord stated that the tenant was served with the landlord's application for dispute resolution hearing package on November 13, 2020, by way of posting to the rental unit door. He claimed that he submitted a video to prove service. He confirmed that the tenant told him he was moving out on November 1, 2020 and that when the landlord went inside the rental unit, no one was there and there was only furniture. He claimed that someone else had broken in and was living in the rental unit, not the tenant.

I find that the tenant was not served with the landlord's application, as required by section 89 of the *Act*. The landlord knew that the tenant was no longer living at the rental unit, when he served the application on the door. According to the landlord, the tenant vacated on November 1, 2020, almost two weeks before service on the door on November 13, 2020. The landlord entered the rental unit and saw that the tenant was not living there.

I notified the landlord that the landlord's application was dismissed with leave to reapply, except for the \$100.00 filing fee. I informed him that the landlord could file a new application, pay a new filing fee, and prove service at the next hearing, if the landlord wishes to pursue this matter further.

I notified the landlord that he could hire a lawyer in order to obtain legal advice, if he wished to do so. The landlord confirmed his understanding of same.

### Conclusion

The landlord's application for an early end to tenancy and an order of possession is dismissed with leave to reapply.

The landlord's application to recover the \$100.00 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: November 26, 2020

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Residential Tenancy Branch