



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

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

- cancellation of a Four Month Notice to End Tenancy For Demolition, Renovation, Repair or Conversion of Rental Unit, pursuant to section 49 (the Four Month Notice);
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. The landlord did not attend the hearing.

Preliminary Issue: Service of Tenant's Application

The tenant testified that on September 7, 2022, he sent a copy of the Application for Dispute Resolution and Notice of Hearing to the landlord by e-mail.

Section 89 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;*

(e) as ordered by the director under section 71(1) [director's orders: delivery and service of document]...

As per section 43 of the Residential Tenancy Regulation, e-mail may also be an accepted method of service but only if the e-mail address has been provided as an acceptable address for service by the other party. In this case, there was no evidence to indicate the landlord provided an e-mail address as an address for service.

Therefore, I am not satisfied the landlord has been served with the tenant's application for dispute resolution by an acceptable method as required by section 89(1) of the *Act*.

Conclusion

I dismiss the tenant's application with leave to reapply. 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: November 17, 2022

Residential Tenancy Branch