



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR, MNDCT, DRI, OLC

Dismissal

The Tenant seeks the following relief under the *Residential Tenancy Act* (the “Act”):

- an order pursuant to s. 46 cancelling a 10-Day Notice to End Tenancy signed on January 22, 2023 (the “10-Day Notice”)
- a monetary order pursuant to s. 67 for compensation or other money owed;
- an order pursuant to s. 43 disputing a rent increase; and
- an order pursuant to s. 62 that the landlord comply with the Act, Regulations, and/or the tenancy agreement.

A.S. appeared as the Tenant. P.N. appeared as the Landlord.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

The Tenant advised that he served his application materials on the Landlord by way of regular mail sent on March 24, 2023. The Landlord denies receiving the Tenant’s application.

The methods of service for dispute resolution proceedings is set out under s. 89 of the *Act*. If documents are to be sent via mail, they must be registered mail. The reason for this is so that tracking information can be reviewed should issues with service arise. Here, the Tenant made use of regular mail, which may be permitted under the general service provision of s. 88 of the *Act*, but this does not apply as this is a dispute resolution proceeding.

I am unable to find that the Tenants application has been served. In these instances, an application may be heard, adjourned, or dismissed with or without leave to reapply. I enquired with the Landlord whether the 10-Day Notice was still in issue and was told that the Tenant paid the arrears within the 5 day deadline such that it was automatically cancelled.

As the 10-Day Notice is no longer in issue, I find that it is appropriate to dismiss the application with leave to reapply except for the claim to cancel the notice, which is dismissed without leave to reapply. It would be inappropriate to proceed with the hearing as the Landlord was not properly served and dismissal with leave to reapply preserves the Tenant's right to advance his claims, provided service is properly effected.

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: April 13, 2023

Residential Tenancy Branch