



**Order under Section 87
Residential Tenancies Act, 2006**

File Number: LTB-L-092035-25

In the matter of: 257 Mississauga Ave
Elliot Lake ON P5A1E8

Between: Nova Leigh Holdings Co, Ltd. Landlord

And

Michael Lawrence Edward Nesbitt Former Tenant
Erica Lynn Nesbitt

Nova Leigh Holdings Co, Ltd. (the 'Landlord') applied for an order requiring Michael Lawrence Edward Nesbitt and Erica Lynn Nesbitt (the 'Former Tenant') to pay the rent and daily compensation that the Former Tenant owes.

This application was heard by videoconference on March 30, 2026.

Only the Landlord's Agent Waleed Elsayed attended the hearing.

As of 9:15am, the Former Tenant was not present or represented at the hearing.

Determinations:

1. As explained below, the Landlord did not prove the allegations contained in the application on a balance of probabilities. Therefore, the application is dismissed.
2. I am not satisfied that the Landlord served the Former Tenant with the application and Notice of Hearing at least 30 days before the hearing in accordance with Rule 3.3 of the LTB's Rules of Procedure.
3. I am not satisfied that the Landlord served the Former Tenant with the application and Notice of Hearing using a method permitted in subsection 191(1.0.1) of the *Residential Tenancies Act, 2006* (the 'Act') and Rule 3.3 of the LTB's Rules of Procedure.
4. The Landlord's Agent testified that he became aware the day prior to the hearing that the Tenant's had relocated to British Columbia, and the lease did not permit service via email. However, at the hearing he sought an order permitting him to communicate with the Tenant via email on the basis that he had communicated with them via email in the past. The Landlord's Agent did not provide any documentation to the Board in support of this assertion.

5. The Agent testified that he had made multiple phone calls and spoken to acquaintances of, and received the Tenant's new address yesterday from someone else who was also pursuing the Tenant with respect to a legal matter, however he testified that he was not certain if this address was correct.
6. The Landlord's Agent indicated that he was not seeking an adjournment to allow him to serve the Tenant's with the L10 and Notice of Hearing but was instead looking to proceed on an uncontested basis. He testified that the Tenant's knew they were being pursued and that he was not sure that the Tenant's would attend the next hearing if they were served.
7. He testified that although he didn't serve in accordance with rules, that should be attributed to a rookie mistake and that the Tenant is aware that there was an Application filed, and what the Landlord was seeking. He testified that he made the Tenant's aware through text messages, phone calls, and emails. The Agent did not provide any of these text messages emails, or phone records to the Board in advance of the hearing.
8. Rule 3.3 of the Board's Rules of Procedure states:

In addition to methods of service identified in the RTA a document may be served on a tenant or former tenant no longer in possession of a rental unit, by:

a. leaving it at the place where mail is ordinarily delivered to the person, sliding it under the door or putting it through a mail slot in the door of the tenant or former tenant's residence;

b. sending the document(s) by courier to the address where the tenant or former tenant resides; or

c. by email if:

i. during the tenancy the tenant or former tenant had consented in writing to service by email; and

ii. if it can be proven that the contents actually came to the attention of the tenant or former tenant.

9. While the Agent asserts that he had made the Tenant's aware of the proceeding, which I note is not necessarily the same as serving the Tenant with the L10 and Notice of Hearing, the Agent claims to have done so via email. I note that the Tenant has not consented to service via email in the lease agreement and the Landlord's Agent was unable to prove that the email ever came to the Tenant's Attention.
10. Therefore, I am not satisfied that the Landlord has served the Tenant with the L10 and Notice of Hearing as required by the Act and the rules.
11. I find that it would be procedurally unfair to the Tenant to proceed with the matter as uncontested. I am also not satisfied that it is appropriate to adjourn the proceeding to allow the Agent another opportunity to serve the Tenant. While the Agent believes that he has located the Tenant's new address in British Columbia, he was not certain of this and provided no documentation to the Board in support of this assertion. Therefore, I am not

satisfied that the Landlord's Agent has demonstrated that he would be able to serve the Tenant if the matter were adjourned. Additionally, while the Landlord's Agent originally sought the Board's consent to serve the Tenant via email, he subsequently requested to proceed as uncontested.

12. I also note that Board has a duty to be expeditious in its proceedings and that where the Member is satisfied that the party has received sufficient notice of the hearing and has been provided with an adequate opportunity to prepare their evidence and submissions, summons witnesses and obtain counsel ahead of the hearing date, an adjournment is not usually granted unless there are exceptional circumstances. In this case while the Agent attributes their failure to serve to a "rookie mistake" it is nevertheless clear that he was aware of the requirements with respect to service and did not comply with them. Therefore, as the Board has a duty to be expeditious, and the Landlord has not complied with the rules for service, and I am not satisfied that exceptional circumstances exist, I am not not satisfied that an adjournment is appropriate.

13. Therefore, the Landlord's Application shall be dismissed.

It is ordered that:

1. The Landlord's Application is dismissed.

April 29, 2026
Date Issued

Reid Jackson
Member, Landlord and Tenant Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.