

## **DECISION**

Dispute Codes      OPR MNR MNSD FF

### Introduction

This was a reconvened hearing which dealt with an Application for Dispute Resolution by the Landlord seeking an Order for Possession and a Monetary Order for unpaid rent, unpaid utilities, to keep all of the security deposit, and to recover the cost of the filing fee from the Tenant for this application. The Landlord originally applied through the direct request process which, upon review, was scheduled for a conference call hearing in accordance with section 74 of the *Residential Tenancy Act*.

### Preliminary Issues

The Landlord testified that the Tenant moved out of the rental unit sometime before October 31, 2009 without providing the Landlord with a forwarding address so the Landlord was unable to serve the Tenant with the notice of today's conference call hearing.

### Analysis

Based on the Landlord's testimony I find that service of the Notice of Dispute Resolution was not effected in accordance with section 59(3) of the *Residential Tenancy Act* (the Act) which stipulates that notices of dispute resolution must be served to the respondent within 3 days. As I have found the service of documents not to have been effected in accordance with the Act, I dismiss the Landlord's claim, with leave to reapply.

### Conclusion

**I HEREBY DISMISS** the Landlord's claim, with 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 27, 2009.

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Dispute Resolution Officer