



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

This hearing was convened in response to an application by the landlord for a monetary order for damage to the rental unit, for unpaid rent or utilities, to keep the security deposit in partial satisfaction of the claim and for money owed or compensation for damage or loss under the Act, Regulation or tenancy Agreement and to recover the filing fee for this application.

The tenant /Respondent (co-tenants) did not make an appearance in the conference call hearing. The application was void of an address for the Respondents and the landlord does not have an address for either of them. The landlord testified that one of the co-tenants was personally served at her place of work – a local restaurant – by an individual other than the landlord. The other co-tenant was not served as they were in jail at the time, and purportedly still is. The landlord did not provide affirmed or sworn proof of service for the first co-tenant.

A Dispute Resolution Hearing is a formal legal process and parties should take reasonable steps to ensure proof of service in addition to all required information and evidence upon which the applicant wishes to rely in advancing their claim is before the hearing. The landlord stated an affidavit might be secured from the individual who served one of the tenants, however this alone does not resolve the lack of service on the other tenant – in which case an application for substitutional service may be appropriate if the individual is incarcerated and the landlord know where they are.

I am not satisfied that both the intended Respondents / tenants have been made aware of this application and hearing. Therefore, this matter is **dismissed** 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: December 03, 2009.

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