



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. The tenant did not participate in the conference call hearing.

### Issues(s) to be Decided

Has the landlord proven that the tenant was served with the notice of hearing and application for dispute resolution (the "Hearing Documents")?

### Background and Evidence

The application was filed with the Residential Tenancy Branch on December 2, 2009. When the landlord was asked how he served the Hearing Documents on the tenant he insisted that he served them on November 26. I explained to the landlord that he could not have served the Hearing Documents on November 26 because they were not created until December 2, but the landlord insisted that the Hearing Documents were served on November 26. Despite repeated explanations as to what the Hearing Documents were and how they differed from other documents and repeated requests for an accurate date, the landlord insisted that the Hearing Documents were served a week prior to the time they were created. The landlord suggested that he may have had another date written down on a paper somewhere, but was unable to provide me with more information.

Analysis

The landlord bears the burden of proving that the tenant was served with the Hearing Documents in order to ensure that he has had notice of the dispute and opportunity to participate in the hearing to offer a defense. I am not satisfied that the Hearing Documents were served on the tenant and therefore dismiss the application with leave to reapply.

Conclusion

The landlord's claim is dismissed with leave to reapply.

Dated: January 13, 2010

---