



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      ET, FF

This hearing was scheduled to hear the landlord's application for an early end of tenancy and Order of Possession. The tenant did not appear at the hearing. The landlord testified that she served the tenant by registered mail sent to the rental unit on January 15, 2010 and the landlord provided a tracking number as evidence. A search of the tracking number showed that the registered mail had not been picked up.

Upon further enquiry, the landlord stated that on January 7 or 8, 2010 the tenant was taken to the hospital after an altercation with the police and the landlord has not seen the tenant since. On January 10, 2010 the tenant's parents vacated and cleaned the rental unit and returned the keys to the landlord. The landlord believes the tenant is still in hospital based on what she has been told by the tenant's case worker and parents.

As the landlord was informed during the hearing, a tenancy ends when a rental unit is vacated or abandoned by a tenant and the landlord regains possession of the rental unit when the when such an event occurs. Therefore, where a unit is vacated or abandoned, an Order of Possession is no longer required as the tenancy has already ended and the landlord has regained possession.

In serving an Application for Dispute Resolution upon another party, the applicant must serve the respondent in a manner that complies with section 89 of the Act. Section 89 provides that an application with respect to a landlord's request for an Order of Possession may be served by registered mail sent to the address at which the tenant resides.

Based on the evidence before me, I was not satisfied that the tenant was residing at the rental unit when the landlord attempted to serve the tenant with notification of this hearing using the rental unit address. Therefore, I do not find sufficient service of the hearing documents upon the tenant and I dismiss this application with leave to reapply.

The landlord requested the filing fee be refunded or waived. As explained to the landlord my authority permits me to order one party to compensate the other party for the filing fee. However, in this case I do not make such an order since the landlord made this application after the rental unit was vacated and possession returned to her.

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: January 27, 2010.

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Dispute Resolution Officer