

## **DECISION**

Dispute Codes      OPR MNR MNDC FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an Order of Possession for unpaid rent, a Monetary Order for damage to the unit, for unpaid rent, and to recover the cost of the filing fee from the Tenant for this application.

### Issues(s) to be Decided

Is the Landlord entitled to an Order of Possession for unpaid rent under section 55 of the *Residential Tenancy Act*?

Is the Landlord entitled to a Monetary Order for a) damage to the unit, and b) unpaid rent under section 67 of the *Residential Tenancy Act*?

### Background and Evidence

The Landlord's Agent testified that the Tenant vacated the rental unit on or before January 4, 2010 so the Landlord was withdrawing his request for an Order of Possession.

Service of the hearing documents, by the Landlord to the Tenant, were sent via registered mail on January 6, 2010 to the rental unit address.

### Analysis

The Landlord's Agent provided evidence that the hearing package was sent, via registered mail, to the rental unit on January 6, 2010, after the Tenant vacated the rental unit.

Section 89 of the Act provides that service of hearing documents may be effected if sent via registered mail to the address at which the respondent resides. In this case, the respondent Tenant was no longer residing at the rental unit address where the hearing documents were mailed. Therefore I find that service of the Notice of Dispute Resolution was not effected in accordance with the *Act*.

To find in favour of an application for a monetary claim, I must be satisfied that the rights of all parties have been upheld by ensuring the parties have been given proper notice to be able to defend their rights. 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.

As the Landlord has not been successful with his application, I decline to award recovery of the filing fee.

#### 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: February 12, 2010.

---

Dispute Resolution Officer