# Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

## DECISION

Dispute Codes      MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain a Monetary Order for unpaid rent and for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act.* The landlord also applied for an Order to keep all or part of the security deposit and to recover the cost of the filing fee.

The landlord testifies that her agent served the tenant at his office with Notice of this hearing. The landlord has provided a letter from her agent that indicates that service took place on October 21, 2009. However, this letter is not a sworn affidavit of service and the landlords' agent did not appear for the conference call. The tenant did not appear for this hearing.

Section 3.3 of the *Residential Tenancy Branch Rules of Procedure* stipulate that if the respondent does not attend the dispute resolution proceeding, the applicant must prove to the Dispute Resolution Officer that the respondent was served as required under the *Act* and that the person who served the documents must either attend the dispute resolution proceeding as a witness, or submit as evidence an affidavit of service, sworn by the person who served the documents, informing the Dispute Resolution Officer how the service was accomplished.

To find in favour of an application, 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. In the absence of proof that the tenant was serviced with the hearing

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documents in accordance with the section 89 of the *Act*, I dismiss the landlord's application 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 18, 2010.

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Dispute Resolution Officer