



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      MNSD, MNDC, MNR, OPR, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee.

### Issue(s) to be Decided

Have the Tenants breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession and monetary relief?

### Background and Evidence

The Tenants did not appear at the hearing. The Landlord testified service of the Notice of Dispute Resolution packages was directed to the Tenants by registered mail to the dispute address, where they, the Landlords, acknowledged the Tenants no longer resided. The Landlord testified that the Tenants vacated the rental unit on or about December 2, 2010. The Landlord did not know if the mail was claimed.

### Analysis

The evidence supports the Notices of Dispute Resolution packages were sent via registered mail to each Tenant to an address where the Tenants no longer reside. I find that service of the Notices of Dispute Resolution was not effected in accordance with Section 89 of the *Residential Tenancy Act* which states that service of Notice of Dispute Resolution, if sent via registered mail, must be sent to the address at which the person resides.

Additionally the rules of procedure state that if a respondent, the Tenants in this case, cannot be found, the applicant, the Landlord in this case, can return to the RTB and request an order for substituted service. The application for substituted service can be made at the start of the hearing provided that reasonable attempts have been made to



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serve the respondent. I do not find that Landlord made reasonable attempts to serve the Tenants.

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**.

I make no findings on the merits of the matter. Leave to reapply is not an extension of any applicable limitation period.

As the Landlord has not been successful with her application, I find that she is not entitled to recover the cost of the filing fee from the Tenants.

## Conclusion

**I HEREBY 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: January 07, 2011.

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Residential Tenancy Branch