



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes            OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain an Order of Possession due to unpaid rent, a Monetary Order for unpaid rent, an Order to keep the tenants security deposit and to recover the cost of the filing fee.

The landlord states that he served the tenants by leaving a copy of the hearing documents on the door of the tenant's rental unit on December 13, 2010. However, the landlord also states that the tenants abandoned the rental unit on November 20, 2010. Therefore, I can not conform from the landlords' evidence that the tenants were served according to the section 89 of the *Act*.

### Analysis

Section 89 of the Act states that hearing documents must be given in one of the following ways:

- 89** (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:
- (a) by leaving a copy with the person;
  - (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
  - (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
  - (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;



# Dispute Resolution Services

Page: 2

Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

(e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

The landlords' evidence shows that the documents were posted to the door of the tenants unit after they had moved out or abandoned the rental unit and according to section 89, documents for Dispute Resolution cannot be served by posting them to the tenant's door when the landlord is applying for a Monetary Order even if the tenants were still in residence at the rental unit. Consequently, I am unable to determine that the tenants were sufficiently served for the purposes of the *Act*.

Section 12 of the Residential Tenancy Policy Guidelines states: Failure to prove service may result in the matter being dismissed, or dismissed with leave to reapply.

If the landlord is satisfied that the tenants have abandoned the rental unit he may deal with the tenants abandoned belongings in accordance with section 25 of the Residential Tenancy Regulations.

## Conclusion

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 tenants were served with the hearing 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: January 07, 2011.

---

Residential Tenancy Branch