

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This hearing was convened in response to an Application for Dispute Resolution (the “Application”) by the Landlord pursuant to the Residential Tenancy Act (the “Act”) for orders as follows:

1. A Monetary for unpaid rent (section 67);
2. A Monetary Order to keep all or part of the pet damage deposit or security deposit (section 38);
3. A Monetary Order for damage or loss (section 67);
4. An Order of Possession for unpaid rent (section 55); and
5. An Order to recover the filing fee for this application (section 72).

The Landlord attended the hearing scheduled by conference call. The Tenant did not appear. At the outset of the hearing, and given the absence of the Tenant, the matter of valid service of the Application was addressed.

### Issue(s) to be Decided

Whether the Application was served in a manner that meets the requirements of the Act.

### Background and Evidence

The Application from the landlord notes that the Tenant was no longer living at the rental address (the “dispute address”) but that a son of the Tenant was continuing to live at the dispute address. Evidence provided by the landlord at the hearing indicates that the landlord was aware that the Tenant continues to live at another residence.

In speaking to the matter of service of the Application, the Landlord stated that he served the application by registered mail to the dispute address on February 10, 2011 and at the hearing provided a tracking number for that registered mail delivery. The Landlord also offered that he was aware that the son of the tenant just returned today to the dispute address, having been away for a period of time, and knew nothing of this scheduled Hearing.

### Analysis

Section 89 (2) of the Act provides that where a Landlord makes an application for an Order of Possession, service of Notice of Dispute Resolution, if sent by registered mail, must be sent to the address at which the Tenant resides, which may not necessarily be the dispute address. Given this requirement and the fact that the Tenant was no longer was living at the dispute address, I cannot find that the Landlord provided effective service of the Application on the Tenant.

In relation to service of the Notice, and for future reference, I note from the evidentiary materials filed by the Landlord that the Notice to End Tenancy (the "Notice") was served to the 18 year old son of the Tenant at the dispute address. I would direct the Landlord to section 88 of the Act that speaks to service of documents such as the Notice. Where service of such a document is made to a person, it must be left with an adult who apparently resides with the person being served.

### Conclusion

Given my finding of ineffective service of the Application, the Landlord's Application is dismissed 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*.

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