



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

### Dispute Codes:

**OPR, MNR, FF**

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, to retain all or part of the security deposit, and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The Agent for the landlord provided affirmed testimony that one copy of the Application for Dispute Resolution and Notice of Hearing was sent to both of the tenants via registered mail at the address noted on the Application. One Canada Post tracking number was provided as evidence of service mailed on February 24, 2011.

The tenants vacated the rental unit on February 28, 2011; they did not vacate on the effective date of the 10 Day Notice issued; February 23, 2011. The landlord now has possession of the rental unit and does not require an Order of possession.

Pursuant to section 90 of the Act, the registered mail would be deemed served to the tenants on the fifth day after mailing; March 1, 2011. The landlord did not know if the tenants had signed, accepting the registered mail prior to that date. As the tenants vacated the rental unit the day prior to March 1, 2011, I find that service of Notice of this hearing was not sufficiently given prior to the tenants vacating the unit.

Further, service of one Notice of this hearing sent via registered mail to the rental unit would not form sufficient service for the purpose of a monetary Order request. Section 89(1) of the Act, requires service to each respondent, at the address where they reside and, in the absence of service to each respondent and assurance that the mail was in fact received, I find that service was not completed for the purpose of a monetary claim and the Application is dismissed with leave to reapply.

### Conclusion

The Application is dismissed with leave to reapply.

Dated: March 09, 2011.

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Residential Tenancy Branch