



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR MNR MNSD MNDC FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an Order of Possession for unpaid rent and a Monetary Order for unpaid rent or utilities, to keep all or part of the pet and or security deposit, for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and to recover the cost of the filing fee from the Tenant for this application.

### Issue(s) to be Decided

1. Has service of the application for dispute resolution and hearing documents been served to the Tenant in accordance with the *Residential Tenancy Act*?

### Background and Evidence

The Landlord's Agent appeared at the hearing and affirmed that the Landlord served the Tenant with the Notice of Hearing documents and he was not in attendance during the service.

### Analysis

When a party makes application for dispute resolution they must serve copies of the application and hearing documents to the respondent(s) in accordance with the Act. The purpose of service of documents is to notify the person being served of their breach under the *Residential Tenancy Act* and notification of their rights under the Act in response.

The Landlord is seeking to end this tenancy due to a breach and therefore has the burden of proving that the Tenant was served with all required documents in accordance with the Act.

Residential Tenancy Branch Rules of Procedure 3.3 stipulate that if a respondent does not attend the dispute resolution proceeding, the applicant must prove to the Dispute Resolution Officer that each respondent was served as required under the Act. If served in person, the person who served the documents must either attend the dispute resolution proceeding, either in-person or by conference call, or provide a written affidavit of service.

As per the Agent's testimony it was the Landlord who served the Tenant the hearing documents. After consideration that the Landlord was absent at the teleconference hearing and in the absence of a signed written affidavit of service I find there is insufficient evidence to prove that service has been effected in accordance with the Act. Accordingly I dismiss the Landlord's application with leave to reapply.

Conclusion

The Landlord's application is HEREBY 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*.

Dated: September 20, 2011.

---

Residential Tenancy Branch