



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPR, OPC, MNR, MNDC

### Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / and compensation for damage or loss under the Act, Regulation or tenancy agreement. The landlord and a person assisting her attended the hearing and gave affirmed testimony.

The tenant did not attend the hearing, and the landlord testified that he vacated the unit on December 17, 2011. Further, the landlord testified that the application for dispute resolution and notice of hearing (the "hearing package") was served by way of posting on his door the day before he vacated, which was December 16, 2011.

The landlord also testified that the hearing package was served by way of registered mail. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail. The Canada Post website informs that delivery was attempted on December 19, 2011, and that a notice card was left at the unit, "indicating where item can be picked up." Ultimately, however, the landlord testified that the package was returned to her.

### Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, the 6 month term of tenancy is from October 1, 2011 to March 30, 2012. Monthly rent of \$770.00 is payable in advance on the first day of each month, and a security deposit of \$385.00 was collected.

The landlord issued a 1 month notice to end tenancy for cause dated November 14, 2011. A copy of the notice was submitted in evidence. The date shown on the notice

by when the tenant must vacate the unit is December 31, 2011. Reasons shown on the notice for its issuance are as follows:

Tenant has allowed an unreasonable number of occupants in the unit.

Tenant or a person permitted on the property by the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord
- put the landlord's property at significant risk

Tenant has engaged in illegal activity that has, or is likely to:

- adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord
- jeopardize a lawful right or interest of another occupant or the landlord

Rental unit must be vacated to comply with a government order

Subsequently, the landlord issued a 10 day notice to end tenancy for unpaid rent dated December 2, 2011. A copy of the notice was submitted in evidence. Thereafter, as earlier stated, the tenant vacated the unit on December 17, 2011 and made no further payments toward rent. The landlord also testified that the tenant failed to provide a forwarding address.

As the tenant has vacated the unit, the landlord withdrew her application for an order of possession.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Section 88 of the Act speaks to **How to give or serve documents generally**. Section 89 addresses **Special rules for certain documents**, and provides in part as follows:

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

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenant was not sufficiently served with the landlord's hearing package. Specifically, posting of the hearing package on the tenant's door is not an authorized method of service. Further, as the tenant had vacated the unit when an attempt was made to deliver the registered mail, and as no forwarding address was provided by the tenant, I find that service by registered mail in this case does not meet the statutory requirement of proper service. Following from the above, the landlord's application for a monetary order as compensation for unpaid rent / and compensation for damage or loss under the Act, Regulation or tenancy agreement is hereby dismissed with leave to reapply.

In the event that the tenant later informs the landlord of his forwarding address, the landlord has the option of reapplying for dispute resolution.

Finally, I note that the landlord's present application does not include application to retain the security deposit or to recover the filing fee.

### 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: January 05, 2012.

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Residential Tenancy Branch