



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, OPB, MNR, FF

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession, and a monetary order for unpaid rent and the filing fee.

The Landlord provided affirmed testimony that he served the Tenant, with the Application for Dispute Resolution and Notice of Hearing on January 09, 2012, by either posting it to the door of the rental unit or by personal service on the Tenant. There was no witness to the service of the Application and Notice of Hearing.

The Tenant did not participate in the conference call hearing.

The Landlord testified that police were called to the rental unit due to resident complaints about the Tenant screaming in the rental unit. The Landlord stated that the police came but no charges were pressed against the Tenant. The Landlord stated that he issued a One Month Notice to End Tenancy to the Tenant on November 28, 2011 either in person or by posting it the rental unit door. There was no witness to the service of the Notice. The Landlord acknowledged that he used an outdated Notice form, however he wished to proceed with his Application.

The Notice of Hearing and Application for Dispute Resolution package were made available to the Landlord on January 09, 2012. Section 59(3) of the Residential Tenancy Act, the "Act", requires that the applicant serve the respondent with the Application, which includes the Notice of Hearing, within three days. Section 89 of the Act, provides specific rules for the service of the Application for dispute resolution package. Section 89 states:

### **Special rules for certain documents**

**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*].

Due to inconsistent testimony from the Landlord, I do not find that the Application and Notice of Hearing package were served on the Tenant as required by section 89 of the Residential Tenancy Act (the "Act"). The Landlord also neglected to submit evidence in advance of the hearing regarding proof of service of the documents, and proof that the Tenant owes rent as claimed by the Landlord.

The Landlord provided a copy of an incomplete and outdated Notice to End Tenancy form. The Notice form used by the Landlord is from 2003 and is no longer a valid Notice to End Tenancy, additionally the Notice form used by the Landlord states that it is a four page form, however, the Landlord only provided page one and two of the old four page Notice form into evidence. I find that the Notice to End Tenancy issued by the Landlord to the Tenant is not valid. Should the Landlord have evidence that the tenancy should end then the Landlord is required to use the most current Notice form, which contains the current sections of the Act. The current Notice forms are available through the Residential Tenancy Branch website and offices.

As a result, the Landlord's Application is dismissed.

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 31, 2012.

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Residential Tenancy Branch