



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

OPR, MNSD, MNR, SS, FF

### **Introduction**

This is the Landlord's application for an order that documents or evidence may be served in a different way than required by the Act; an Order of Possession; a Monetary Order for unpaid rent; to apply the security deposit towards its monetary award; and to recover the cost of the filing fee from the Tenant.

The Landlord's agents gave affirmed testimony at the Hearing.

This matter was scheduled to be heard at 11:00 a.m., February 3, 2012. The Tenant did not sign into the Hearing, although the line remained open until 11:20 a.m.

### **Preliminary Matters**

#### **Service of the Notice of Hearing documents**

The Landlord's agent RK testified that the Tenant and his daughter moved into the rental unit in 2005. He stated that the daughter moved out last year, that the Tenant had not lived in the rental unit for 2 years, and that it is vacant. The Landlord's agent RK testified that the Tenant has not paid rent since October, 2011.

The Landlord's agent RK testified that the Tenant has an office in another city and that he has mailed post-dated cheques from his work place in that city. He stated that the Tenant is a fisherman who fishes in a remote area of BC.

The Landlord's agent RK testified that an agent of the Landlord's served the Tenant with the Notice of Hearing documents, by registered mail to two addresses:

- the rental unit; and
- an address from where the Tenant sent post dated cheques was working in August of 2010.

The Landlord did not provide the registered mail receipt for either address. The Landlords' agents did not know for certain when the documents were mailed. They stated that another agent had mailed them. We stood down briefly in order that the Landlords could call the other agent as a witness as to when the documents were

mailed and to provide the tracking numbers and tracking information. The Landlords were unsuccessful in contacting the other agent.

I advised the Landlords that there was insufficient evidence of service of the Notice of Hearing documents pursuant to the provisions of Sections 89 or 71 of the Act. The Landlord's agents were unable to provide the tracking numbers or date that the documents were mailed.

It is also important to note that Section 89(c) requires documents to be mailed to the address where the Tenant resides. He does not reside at the rental unit. Section 71 provides that the director may order that a document not served in accordance with the provisions of Section 89 has been sufficiently served for the purposes of the Act. However, there was insufficient evidence that the Tenant was still working at the work address. The last communication from the Tenant at that address was in August of 2010.

The Landlord's application was dismissed with leave to reapply.

### **Conclusion**

The Landlord's application for an Order of Possession is dismissed.

The remainder of 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*.

Dated: February 03, 2012.

---

Residential Tenancy Branch