



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR O MNR FF  
                                 CNR MNDC

### Introduction

This hearing dealt with cross Applications for Dispute Resolution file by both the Landlord and the Tenant.

The Landlord filed seeking an Order of Possession for unpaid rent, and a Monetary Order for other reasons, for unpaid rent and/or utilities, and to recover the cost of the filing fee from the Tenant for this application.

The tenant filed seeking an Order to cancel a notice to end tenancy for unpaid rent and a Monetary Order for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement.

The Landlord appeared at the teleconference hearing, and gave affirmed testimony. No one appeared on behalf of the Tenant despite this hearing being convened to hear matters pertaining to the Tenant's application as well as the Landlord's application.

### Issue(s) to be Decided

1. Has the Landlord served the Notice of Dispute Resolution Hearing in accordance with section 89 of the *Residential Tenancy Act*?

### Background and Evidence

The Landlord affirmed she received an Order of Possession on February 13, 2012 and therefore was seeking only a Monetary Order in today's hearing.

The Landlord advised she posted the Order and the hearing documents for this application to the Tenant's door on February 13, 2012.

## Analysis

### **Landlord's application.**

Section 89(1) of the *Residential Tenancy Act* stipulates that an application for dispute resolution, 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*].

In this case the evidence indicates the Notice of Dispute Resolution was posted to the Tenant's door. Therefore, I find that service of the Notice of Dispute Resolution was not effected in accordance with the Act. Accordingly I dismiss the Landlord's application with leave to reapply.

The Landlord has not been successful with her application; therefore she must bear the burden of the cost to file her application.

### **Tenant's application.**

Section 61 of the *Residential Tenancy Act* states that upon accepting an application for dispute resolution, the director must set the matter down for a hearing and that the Director must determine if the hearing is to be oral or in writing. In this case, the hearing was scheduled for an oral teleconference hearing.

In the absence of the applicant Tenant, the telephone line remained open while the phone system was monitored for ten minutes and no one on behalf of the applicant Tenant called into the hearing during this time. Based on the aforementioned I find that the Tenant has failed to present the merits of their application and the application is dismissed.

Conclusion

**I HEREBY DISMISS** the Landlord's application, with leave to reapply.

**I HEREBY DISMISS** the Tenant's application, without 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: March 06, 2012.

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Residential Tenancy Branch