



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes For the landlord: OPR, OPB, MND, MNDC, MNR, MNSD, FF  
For the tenants: MNSD, OLC

## DECISION AND REASONS

This hearing was convened as the result of the cross applications for dispute resolution of the parties seeking remedy under the Residential Tenancy Act (the "Act").

The landlord applied for an order of possession due to unpaid rent, an order of possession due to an alleged breach by the tenant of an agreement with the landlord, for a monetary order for damage to the rental unit, money owed or compensation for damage or loss and unpaid rent, for authority to retain the tenant's security deposit and for recovery of the filing fee.

The tenants applied for a return of their security deposit and pet damage deposit and for an order requiring the landlord to comply with the Act.

Despite having his own application for dispute resolution set for this day and time, the landlord did not appear to present his claim. The tenants appeared and were ready to proceed.

Therefore in the absence of the landlord, I **dismiss** the landlord's application, **without leave to reapply**.

The tenant testified that the landlord was served their Application and Notice of the Hearing Package via personal delivery on or about January 20, 2012.

Upon further query, the tenant stated that she gave the hearing package to an employee at the landlord's place of employment, who submitted that he would give the package to the landlord. The employee did not appear at the hearing to support delivery of the hearing package.

As I explained in the hearing, Section 89 of the Act requires that a respondent, the landlord in this case, be served by registered mail at the address provided by the

landlord at which he carries on business or by hand delivering the hearing package to that person.

As the person delivering the hearing documents was not present in the hearing to confirm delivery, I cannot determine that the landlord was served in a manner consistent with the Act.

Without being served in a manner conforming to the Act and the Residential Tenancy Branch Rules of Procedure, the landlord/respondent would easily have any Decision or Order made against him overturned upon Review.

Therefore, on a balance of probabilities, I find the landlord has not been served with the Notice of Hearing and Application for Dispute Resolution.

I **dismiss** the tenants' application for dispute resolution, **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: March 14, 2012.

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Residential Tenancy Branch