



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

This hearing dealt with an application by the landlord for an order of possession and a monetary order. The landlord testified that she served the tenant with the notice to end tenancy on March 5, 2012 by posting it to the door of the rental unit and that she served the application for dispute resolution and notice of hearing on the tenant via registered mail sent to the rental unit. She further testified that the tenant was living alone in the rental unit and that he had been arrested on February 27, 2012 and incarcerated since that time.

In order to proceed with the hearing, I must be satisfied that the tenant has been given notice of the claim made against him. While the landlord has followed the service provisions found in section 82 of the Act and while section 83 provides deeming provisions respecting service, I find that the landlord rebutted the presumption of service as she acknowledged that the tenant was not residing at the rental unit at the time the documents were served.

I was not satisfied that the notice of hearing and application for dispute resolution were received by the tenant and declined to proceed with the hearing.

The claim 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: April 16, 2012

Residential Tenancy Branch