

DECISION

Dispute Codes OPR, MND, MNR, MNSD, FF

This is an application filed by the Landlord for an order of possession and a monetary order for unpaid rent, for damage to the rental, to keep all or part of the security deposit and recovery of the filing fee.

The Landlord attended the hearing by conference call and gave testimony. The Tenant did not attend. The Landlord states that the Tenant was served with the notice of hearing and evidence package by Canada Post Registered Mail on March 28, 2012. The Landlord has provided in his direct testimony two Canada Post Registered Mail Tracking Numbers, RW#####CA and RW#####CA as proof of service. The Landlord stated at the beginning of the hearing that an order of possession was no longer needed as the Tenants vacated the rental unit on either April 2nd or 3rd of 2012. I find that the Landlord has failed to satisfy me that the Tenant's were served with the notice of hearing and evidence package. Without any evidence to support the Landlord's claim of service, Residential Tenancy Branch Rules of Procedure state that service by Registered Mail is deemed served 5 days later after the date it was sent. In this case service is deemed on April 3, 2012. It is clear based upon the Landlord's direct testimony that the Tenant's did not receive the notice of a hearing package as he gained possession of the rental unit where the notice was served on April 2nd or April 3rd of 2012.

On this basis, I find that service has not been proven on the Tenants and I order that this application be dismissed with leave to reapply. Leave to reapply is not an extension on an applicable limitation period.

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: May 01, 2012.

Residential Tenancy Branch