



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR MNR FF

### Preliminary Issues

At the outset of the hearing the Landlord confirmed he had reversed the names on his application for dispute resolution listing both the Tenant's and his surname as first names. He requested that I correct the style of cause to have the first and last names displayed in the correct order.

Based on the aforementioned I amended the style of cause to display the names in the correct order, pursuant to section 64 (3)(c) of the Act that stipulates the director may amend an application for dispute resolution or permit an application for dispute resolution to be amended.

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an Order of Possession for unpaid rent and a Monetary Order for unpaid rent or utilities and to recover the cost of the filing fee from the Tenant for this application.

Service of the hearing documents, by the Landlord to the Tenant, was done in accordance with section 89 of the Act, sent via registered mail on May 3, 2012. Mail receipt numbers were provided in the Landlord's evidence. Based on the submission of the Landlord I find the Tenant was deemed to be served the hearing documents on May 8, 2012, the fifth day after they were mailed as per section 90(a) of the Act.

### Issue(s) to be Decided

1. Has a valid 10 Day Notice to End Tenancy been issued and served upon the Tenant in accordance with the Act?

### Background and Evidence

The Landlord confirmed the only evidence he provided were copies of the registered mail receipts. He stated that he served the Tenant a 10 Day Notice however he did not provide a copy of it into evidence as he thought we would have an electronic copy of it because he downloaded the form from the internet.

### Analysis

The hearing package contains instructions on evidence and the deadlines to submit evidence, as does the Notice of Hearing provided to the Landlord.

When a landlord makes application to obtain an Order of Possession for unpaid rent and a Monetary Order for unpaid rent the onus of proof is on the landlord to establish that a 10 Day Notice has been issued and served upon the Tenant in accordance with section 46 of the Act.

The Notice to End Tenancy document is not a mere technicality. In fact, it is hard to imagine another document being more relevant or material to the Landlord's claim, in particular when he is asking to have this tenancy ended based on this document.

As the Landlord did not submit a copy of the 10 Day Notice into evidence I find there to be insufficient evidence to prove the 10 Day Notice was issued in accordance with the Act. Accordingly, I dismiss the claim with leave to reapply.

### Conclusion

No findings of fact or law have been made pertaining to the 10 Day Notice to End Tenancy.

I HEREBY DISMISS the Landlord's application, 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: May 23, 2012.

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Residential Tenancy Branch