



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR MND MNR FF

### 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 damage to the unit, site or property, for unpaid rent or utilities, and to recover the cost of the filing fee from the Tenant for this application.

### Issue(s) to be Decided

1. Has the Landlord proven service of the hearing documents?
2. Has the Landlord issued and served a valid 10 Day Notice to end tenancy to the Tenant?

### Background and Evidence

At the outset of the hearing the Landlord affirmed he served the Tenant with the hearing documents on a Saturday. When I asked which date he stated it was June 29, 2012, which I pointed out was a Friday. The Landlord assured me they were served on the Friday.

The Landlord confirmed he did not submit any evidence to the *Residential Tenancy Branch* and did not serve evidence upon the Tenant in support of his application.

The Landlord stated that he served the Tenant with a 10 Day Notice to end tenancy on June 1, 2012 and that he was expecting the Tenant to call into the teleconference hearing so he did not feel the need to submit the Notice as evidence.

### Analysis

When a Landlord makes application for dispute resolution the onus lies with the Landlord to prove service of the hearing documents and to prove the merits of his case.

In this case the Landlord provided contradictory testimony as to which date the hearing documents were served upon the Tenant. Initially he stated they were personally served on a Saturday and then changed it to a Friday when he provided the date of June 29, 2012.

When asked when the 10 Day Notice was served the Landlord testified that the 10 Day Notice was served June 1, 2012 however on his application for dispute resolution he indicates the Notice was posted on the door on June 06, 2012.

The Landlord did not provide evidence in support his application. The 10 Day 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 cancelled, obtain an Order of Possession and obtain a Monetary Order as a result of serving this Notice.

The responsibility of proving a claim is on the person making the claim. As the Landlord failed to provide a copy of the Notice, I am unable to determine if this Notice was issued and served to the Tenant in accordance with the Act. Therefore, I find the Landlord has provided insufficient evidence to prove his claim, and the claim is hereby dismissed.

The 10 Day Notice to End Tenancy is not cancelled as I have not determined the validity of the Notice.

### Conclusion

I HEREBY DISMISS the Landlord's claim, 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: July 23, 2012.

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Residential Tenancy Branch