



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession.

The hearing was conducted via teleconference and was attended by the landlord; one of the tenants and the tenants' advocate.

At the outset of the hearing the tenant testified that she received notice of this hearing and the landlord's evidence 1 hour before the hearing by registered mail delivery. The advocate also noted that the package did not include a copy of the landlord's Application for Dispute Resolution and as such the tenant was unaware of what the hearing was about. The tenant also testified she did not find any package attached to the door of the rental unit.

The landlord first testified that he sent the hearing documents via registered mail on August 16, 2012 and that they also posted them on the tenant's door on August 18, 2012. The landlord testified he had pictures to prove service on the door but did not provide them into evidence.

At the start of the hearing the landlord could not recall the registered mail tracking number but that his wife could provide testimony to confirm service by posting it on the door. I attempted to call the landlord's wife with the number provided by the landlord; got through to her receptionist but the landlord's wife did not answer the phone when it was re-directed to her.

When I re-entered the hearing the tenant's advocate indicated the landlord had provided the tracking number. The advocate testified he looked up the tracking number on Canada Post's website and found that the landlord dropped off the package to the Post Office for registered mail on August 21, 2012.

The landlord then testified it was taken to the store with a postal outlet that was closed on August 17, 2012 and they were told it would be sent on the following Monday (August 20, 2012). The tracking information confirms it was received by Canada Post on August 21, 2012.

As the landlord's witness was not available and the landlord did not provide any of his photographic evidence that the hearing documents were attached to the door and in

conjunction with the tenant's testimony that she did not receive any documents attached to her door I find the landlord has not established that he served the tenants with notice of this hearing by posting it to the rental unit door.

Further, despite the landlord's testimony, I accept that the landlord did not attempt to serve the tenants by registered mail until August 21, 2012 which was 2 days before the hearing and 6 days after the landlord submitted his Application for Dispute Resolution, contrary to the requirements under Section 59(3) of the *Residential Tenancy Act (Act)* that states it must be served within 3 days of submitting the Application.

#### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession to end the tenancy early and without notice, pursuant to Section 56 of the *Act*.

#### Conclusion

As the landlord has failed to establish that he served the tenant with notice of this hearing and the appropriate documents required I dismiss this Application in its entirety 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: August 24, 2012.

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Residential Tenancy Branch