



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MND, MNSD, FF

### Introduction

This hearing was convened by way of conference call in response to the landlords application for an Order of Possession for unpaid rent; for a Monetary Order for unpaid rent; a Monetary Order for damage to the unit, site or property; for an Order permitting the landlord to keep all or part of the tenants security deposit; and to recover the filing fee from the tenants for the cost of this application.

The landlord states that they served the tenants by registered mail on October 19, 2012 with a copy of the landlords' application and hearing letter. The landlord also states that the tenants were served the 10 Day Notice to End Tenancy for unpaid rent on October 02, 2012. The landlord states that the tenants abandoned the rental unit on or about September 30, 2012 and have not provided a forwarding address.

### Analysis

Section 89 of the Act states that hearing documents must be given in one of the following ways:

**89** (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:

(a) by leaving a copy with the person;

- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

The landlords' evidence shows that the documents were sent to the tenants by registered mail after the tenants had abandoned the unit. The landlord also testifies that the tenants were served the 10 Day Notice by posting it to the door of the rental unit on October 02, 2012 two days after the tenants are believed to have abandoned the rental unit. Consequently, I am unable to determine that the tenants were sufficiently served for the purposes of the *Act* or that they received the 10 Day Notice to End Tenancy.

Section 12 of the Residential Tenancy Policy Guidelines states: Failure to prove service may result in the matter being dismissed, or dismissed with leave to reapply.

If the landlord is satisfied that the tenants have abandoned the rental unit he may deal with the tenants abandoned belongings in accordance with Part 5 of the Residential Tenancy Regulations.

### Conclusion

To find in favour of an application, I must be satisfied that the rights of all parties have been upheld by ensuring the parties have been given proper notice to be able to defend their rights. In the absence of proof that the tenants were served with the hearing

documents in accordance with the section 89 of the *Act*, I 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: November 22, 2012.

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Residential Tenancy Branch