



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This was a hearing with respect to the landlord's application for an order for possession and a monetary order. The hearing was conducted by conference call. The landlord called in and participated in the hearing. The tenant did not attend.

### Issue(s) to be Decided

Is the landlord entitled to an order for possession?

Is the landlord entitled to a monetary order and if so, in what amount?

### Background and Evidence

The rental unit is cottage in Pemberton. The tenancy began in April 2010. Monthly rent is \$825.00. The tenant paid a security deposit of \$12.50 on February 14, 2010.

The tenant has been travelling out of the country for several months. She has paid the rent to the landlord by cheque, but the payments have not been made on time. According to the landlord rent is due on the 25<sup>th</sup> of each month as payment for the following month. Rent was not paid for February on time. On January 26, 2013 the landlord served the tenant with a Notice to End Tenancy for unpaid rent by posting it to the door of the rental unit. In the landlord's application for dispute resolution filed on February 4, 2013, the landlord requested an order for possession and a monetary order for unpaid rent for February. At the hearing the landlord acknowledged that he received payment of rent for February, but he said that he accepted it for use and occupancy only.

The landlord testified that he served the tenant by sending the application and Notice of Hearing to the tenant by registered mail addressed to her at the rental address. He testified that he has been communicating with the tenant by e-mail, but he said that he did not provide her with notice of the hearing, including the call-in particulars of the

hearing by e-mail, even though he knew that she was not living at the rental unit where Notice of the hearing was sent.

Analysis and conclusion

The *Residential Tenancy Act* provides that a tenant may be served with an application for dispute resolution by sending it by registered mail to the address at which the tenant resides. The landlord is aware that the tenant is not currently residing at the rental unit and, knowing that the landlord chose not to give the tenant notice of the hearing in a manner that would have made her aware of the hearing. I find that the tenant has not been served with the landlord's application for dispute resolution and with Notice of the hearing; I therefore dismiss the landlord's application for an order for possession with leave to reapply. There is no rent outstanding and the landlord's claim for a monetary order for unpaid rent is dismissed without 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: March 5, 2013

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Residential Tenancy Branch

