



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Pinnacle International Realty Group II  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: OPR, MNR, MNDC, MNSD, FF

### Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee. The landlord's agent attended and gave affirmed testimony.

The landlord's agent testified that she served the application for dispute resolution and notice of hearing (the "hearing package") at the respective addresses of the tenants' parents, by way of registered mail. Evidence submitted by the landlord's agent includes the Canada Post tracking numbers for the registered mail. The landlord's agent testified that neither package was delivered or subsequently picked up.

As the tenants have now vacated the unit, I consider the application for an order of possession to be withdrawn.

### Issue(s) to be Decided

Whether the hearing packages have been served in compliance with the Act.

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, the fixed term of tenancy is from August 1, 2012 to July 31, 2013. Monthly rent of \$1,300.00 is due and payable in advance on the first day of each month. A security deposit of \$650.00 and a pet damage deposit of \$650.00 were collected. A move-in condition inspection report was completed with the participation of both parties.

Initially, there were three tenants. However, after giving notice, one of the tenants vacated the unit at the end of November 2012. It is the two remaining tenants who are the subject of the landlord's application.

During the term of the tenancy, the parties agreed that, as the tenants had not brought pets into the unit, the pet damage deposit would be credited toward half of one month's rent. In the result, the landlord continues to retain only the security deposit.

Arising from rent which remained unpaid when due on December 1, 2012, the landlord issued a 10 day notice to end tenancy for unpaid rent dated December 2, 2012. The notice was served by way of posting on the unit door on that same date. A copy of the notice was submitted in evidence. Subsequently, the tenants made no further payment toward rent, and they vacated the unit by the end of December 2012. A move-out condition inspection report was completed with the participation of the landlord's agent and one of the tenants.

Neither of the tenants provided a forwarding address at the end of tenancy. The landlord's agent used the address of each tenant's parents for service of the hearing package. The landlord's agent testified that she had the parental addresses on file from applications for tenancy which the tenants completed prior to the start of tenancy. The landlord's agent considers it likely that both tenants moved back with their parents after the tenancy ended, however, she testified that neither tenant informed her of this either orally or in writing. New renters were found effective February 1, 2013.

The landlord seeks miscellaneous compensation which includes, but is not necessarily limited to, unpaid rent for December 2012, loss of rental income for January 2013, general unit cleaning, carpet cleaning, replacement of keys & parking pass, in addition to the filing fee.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

In relation to service of the hearing package(s), section 89 of the Act speaks to **Special rules for certain documents**, in part as follows:

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*].

Section 71 of the Act speaks to **Director's orders: delivery and service of documents**, in part as follows:

71(1) The director may order that a notice, order, process or other document may be served by substituted service in accordance with the order.

(2) In addition to the authority under subsection (1), the director may make any of the following orders:

- (a) that a document must be served in a manner the director considers necessary, despite sections 88 [*how to give or serve documents generally*] and 89 [*special rules for certain documents*];

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agent, I find that the hearing packages have not been served in accordance with the statutory provisions set out above in section 89 of the Act. However, the landlord has the option of applying for substituted service pursuant to section 71 of the Act. In the meantime, the landlord's application is dismissed with leave to reapply.

### Conclusion

The landlord's application is hereby dismissed 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: April 29, 2013

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Residential Tenancy Branch