



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding EXECUTIVE PROPERTY MANAGEMENT  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR MNR

### Introduction

This hearing dealt with an Application for Dispute Resolution filed on August 23, 2013, by the Landlord seeking an Order of Possession for unpaid rent and a Monetary Order for unpaid rent.

The application was filed through the Direct Request Process and on August 30, 2013 an interim decision was issued advising the parties that the matters did not meet the requirements of a Direct Request Process and were adjourned to a participatory hearing scheduled for October 11, 2013.

### Issue(s) to be Decided

1. Has the Landlord regained possession of the rental unit?
2. Have the Tenants been sufficiently served notice of this participatory hearing?

### Background and Evidence

At the outset of the proceeding the Landlord provided affirmed testimony that he has been managing this property on behalf of the owner for approximately four months. He arranged for the owner to sign the tenancy agreement along with the Tenants for a fixed term tenancy that began on June 1, 2013 and was set to end on May 31, 2014.

The Landlord stated that he received the interim decision of August 30, 2013, sometime mid September at which time the Tenants had already vacated the property. He has regained possession and re-rented the unit to new tenants effective October 1, 2013; therefore, he was withdrawing their request for an Order of Possession.

The Landlord advised that he was not provided a forwarding address for the Tenants so he posted the notice of reconvened hearing to the rental unit door and sent a copy to the address where one of the Tenant's mothers resides.

### Analysis

Section 89(1) stipulates that 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*] [emphasis added].

In this case the documents were posted to the rental unit door, after the Tenants had vacated the property, and another copy was sent registered mail to an address where there is no evidence to indicate the Tenants reside. Therefore, I find there to be insufficient evidence to prove the Tenants were properly served the Application for Dispute Resolution and notice of this proceeding, as required. Accordingly, the monetary claim is dismissed with leave to reapply.

### 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: October 11, 2013

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Residential Tenancy Branch

