



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding LANCASTER APARTMENTS  
and [tenant name suppressed to protect privacy]

## **Decision**

### **Dispute Codes:**

MNR, MNDC, OPR, FF

### **Introduction**

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on the Ten Day Notice to End Tenancy for Unpaid Rent, dated July 5, 2013 and a monetary order for rent owed.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The participants had an opportunity to submit documentary evidence prior to this hearing, and the evidence has been reviewed. The parties were also permitted to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the affirmed testimony and relevant evidence that was properly served.

The landlord testified that the Ten Day Notice to End Tenancy for Unpaid Rent had been posted on the tenant's door on July 5, 2013.

However, the tenant testified that the Ten Day Notice to End Tenancy for Unpaid Rent was never served on the tenant. The tenant testified that they had engaged in a discussion with the building manager about paying their rent late and shortly after the conversation, the tenant found out that this individual was no longer working for the landlord. The tenant stated that they believed that the matter had been resolved, without ever have been served any Notice by the landlord.

The landlord was not able to provide first-hand testimony that the Ten Day Notice to End Tenancy for Unpaid Rent was served on the tenant and the previous manager was not in attendance as a witness.

### **Preliminary Issue**

Section 88 of the Act requires that all documents, other than those referred to in section 89 [*special rules for certain documents*], must be given or served 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 ordinary mail or 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 ordinary mail or registered mail to a forwarding address provided by the tenant;
- (e) by leaving a copy at the person's residence with an adult who apparently resides with the person;
- (f) by leaving a copy in a mail box or mail slot for the address at which the person resides or, if the person is a landlord, for the address at which the person carries on business as a landlord;
- (g) by attaching a copy to a door or other conspicuous place at the address at which the person resides or, if the person is a landlord, at the address at which the person carries on business as a landlord;
- (h) by transmitting a copy to a fax number provided as an address for service by the person to be served;
- (i) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*];
- (j) by any other means of service prescribed in the regulations.

The burden is on the Applicant to prove that the service was accomplished in compliance with one or more of the above provisions. However, the landlord did not have specific information or documentary records to verify the time, date and method of service of the Notice.

Based on the evidence before me, I find that the landlord failed to prove that the Ten Day Notice to End Tenancy for Unpaid Rent was properly served to the tenant in compliance with the Act.

Given the above, I find that the matter under dispute cannot proceed due to insufficient proof that the tenant was properly served. Accordingly, I dismiss this application with leave to reapply at a later date, should the landlord wish to do so once a current service address for the respondent has been found.

**Conclusion**

The landlord is not successful in the application as the landlord failed to prove service of the 10-Day Notice to End Tenancy for Unpaid Rent and the matter is 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: August 26, 2013

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Residential Tenancy Branch

