



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **Decision**

### **Dispute Codes:**

OPR, MNR, FF

### **Introduction**

This hearing was convened to deal with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order based on a Ten Day Notice to End Tenancy for Unpaid Rent.

The landlord appeared but the tenant did not appear.

### **Preliminary Issue**

The landlord's application for dispute resolution was made on August 8, 2013 and the landlord confirmed that, by the time the landlord attempted to serve the tenant, they had already vacated the subject address.

I find that section 89(1) of the Act states that application for dispute resolution 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; (My emphasis)
- (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*].

In this instance I find as a fact that the tenant had already vacated the rental unit and therefore this was no longer living at the address where he landlord had attempted to serve the hearing documents.

Based on the evidence before me, I find that the landlord failed to prove service as specified by 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's application is dismissed with leave to reapply for not proving service in compliance with the Act.

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: September 17, 2013

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Residential Tenancy Branch

