



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR MNR O  
                                 CNR

### Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by both the Landlord and the Tenant.

The Landlord filed on September 11, 2013, seeking an Order of Possession for unpaid rent, a Monetary Order for unpaid rent and requested that his application be heard at the same time as the Tenant's application.

The Tenant filed on September 9, 2013, seeking to cancel a notice to end tenancy issued for unpaid rent.

At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however, each declined and acknowledged that they understood how the conference would proceed.

### Issue(s) to be Decided

1. Has the Tenant moved out of the rental unit?
2. Has the Landlord proven service of his application to the Tenant?

### Background and Evidence

At the outset of this proceeding the Tenant testified that she vacated the property as of 1, 2013 and called to cancel her application. She argued that she has never been served a copy of the Landlord's application or copies of her evidence. During the

hearing the Tenant provided her forwarding address, as listed on the first page of this decision.

The Agent for the Landlord confirmed that the Landlord has regained possession of the unit. The Landlord was currently out of town and requested that the Agent attend this proceeding on his behalf. The Agent testified that he did not have any information about how or when the Landlord served the Tenant with copies of his application or evidence.

### Analysis

The Tenant withdrew her application because she vacated the property in accordance with the Notice.

In the absence of evidence to prove how service of the Landlord's Application and evidence were conducted, and in the presence of the Tenant's testimony that she was not served, I find the Landlord provided insufficient evidence to prove service was conducted in accordance with Section 89 of the *Residential Tenancy Act*.

To find in favour of an application for a monetary claim, I must be satisfied that the rights of all parties have been upheld by ensuring the parties have been given proper notice to be able to defend their rights. Accordingly, I dismiss the Landlord's claim, with leave to reapply.

### Conclusion

**I HEREBY DISMISS** the Landlord's claim, with leave to reapply.

The Tenant's application was withdrawn.

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 17, 2013

---

Residential Tenancy Branch

