



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

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

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. A Monetary Order for compensation – Section 67;
4. An Order to retain the security deposit - Section 38; and
5. An Order to recover the filing fee for this application - Section 72.

The Tenant did not appear at the Hearing. The Landlord stated that the Tenants moved out of the unit at the beginning of November 2013 but that the Landlord did not know this until the end of November 2013. The Landlord could not provide the exact date in November when they discovered the Tenant had left. The Landlord states that the application for dispute resolution and notice of hearing by registered mail were sent to the Tenant at the unit address on November 28, 2013 and the Landlord states that the Tenants were likely not in the unit when this mail was sent.

The Act provides the following requirements for service of the Application

- 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*].

As the Landlord served the Application by sending it to the dispute unit likely after the Tenant moved out of the unit, I cannot find on a balance of probabilities that service has been accomplished in accordance with Section 89 of the Act and I therefore dismiss the application with leave to reapply. Leave to re-apply is not an extension of any applicable limitation period.

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: January 20, 2014

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Residential Tenancy Branch

