



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding DERLAN HOLDINGS LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR MNR MNSD MNDC FF

### Introduction and Analysis

This hearing dealt with the landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for an order of possession for unpaid rent or utilities, for a monetary order for unpaid rent or utilities, for authorization to keep the security deposit or pet damage deposit, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the filing fee.

An agent for the landlord company attended the hearing. The tenants did not attend the hearing. As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing") was considered. The agent testified that the Notice of Hearing and evidence was mailed via registered mail to the rental unit address on February 12, 2014, and that it was returned to the landlord as "unclaimed". A registered mail tracking number was submitted in evidence. The agent testified that on February 13, 2014 he confirmed that the tenants had vacated the rental unit by leaving the rental unit door open and the keys behind and as a result, the landlord had already obtained possession of the rental unit back since filing the application. The agent stated that the tenants have not provided their forwarding address to the landlord.

Residential Tenancy Branch Policy Guideline #12 Service Provisions requires that where a landlord is serving a tenant by registered mail, the address for service must be where the tenant resides at the time of mailing, or the forwarding address provided by the tenant. In the matter before me, the agent provided testimony that confirmed that the tenant had vacated the rental unit the day after the registered mail package was mailed and stated that the tenants failed to provide a forwarding address to the landlord. Documents served by registered mail are deemed served five days later pursuant to section 90 of the *Act*, however, based on the testimony of the landlord, I am not satisfied that the tenants were sufficiently served as the tenants vacated the day after the landlord mailed the Notice of Hearing, which is further supported by the fact that the

landlord received the returned registered mail package as “unclaimed”. Therefore, **I find** the tenants have not been sufficiently served with the Notice of Hearing.

Both parties have the right to a fair hearing. The tenants would not be aware of the hearing without having received the Notice of a Dispute Resolution Hearing. Therefore, **I dismiss** the landlord’s application **with leave to reapply** as I am not satisfied that the tenants have been sufficiently served with the Notice of Hearing. I note this decision does not extend any applicable time limits under the *Act*.

### Conclusion

The landlord’s application is dismissed with leave to reapply due to a service issue.

This decision does not extend any applicable time limits under the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: March 28, 2014

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Residential Tenancy Branch

