



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding REALTY EXECUTIVES ECO-WORLD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: MNR OPR FF

### **Introduction:**

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act for orders as follows:

- a) A monetary order pursuant to Section 67;
- b) An Order of Possession pursuant to Sections 46, and 55;
- c) To retain the security deposit to offset the amount owing; and
- d) An order to recover the filing fee pursuant to Section 72.

### **SERVICE:**

The tenant did not attend. The landlord gave sworn testimony that the Notice to end Tenancy dated January 2, 2014 was served by registered mail and the Application for Dispute Resolution by registered mail. It was verified online that the Notice to End Tenancy was refused by the tenant. I find the tenant is deemed to be served with the Notice to End Tenancy as it is their responsibility to accept the registered mail sent by the landlord. The landlord although given time in the hearing was unable to supply a valid tracking number for the registered mail of the Application/Notice of Hearing. I find that there is not sufficient evidence to prove that the tenant is served or deemed to be served with the Application.

### **Issue(s) to be Decided:**

The tenant was issued a Notice to End Tenancy dated January 2, 2014 for unpaid rent. Is the landlord now entitled to an Order of Possession and to a Monetary Order for rental arrears and filing fee?

### **Background and Evidence:**

The tenant did not attend but there was insufficient evidence to prove valid service of the Application/Notice of Hearing although the landlord was granted ample time in the hearing to find the tracking number in her files.

**Analysis**

I find insufficient evidence to prove there was valid service of the Application/Notice of Hearing as required by section 89 of the Act. According to the Principles of Natural Justice, I find a person must be notified of the case against them and have the opportunity to respond and I find insufficient evidence that the tenant has been notified or deemed to be notified pursuant to section 89 of the Act.

**Conclusion:**

I dismiss the Application of the landlord and give them leave to reapply within the legislated time limitation. No filing fee is awarded.

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: April 09, 2014

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Residential Tenancy Branch

