



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPB, OPR, OPL, O, MND, MNDC, MNR, MNSD, FF  
CNL, FF

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by both the Tenants and the Landlords.

The Landlords applied for an Order of Possession and a Monetary Order. The Tenants applied to cancel a notice to end tenancy for Landlord’s use of the property.

The Tenants failed to appear for the 35 minute duration of the hearing. However, one of the Landlords appeared for the hearing and provided affirmed testimony during the hearing as well as documentary evidence in advance of the hearing.

As the Tenants had failed to appear for the hearing, I considered the service of the Landlords’ Application to the Tenants. The Landlord testified that after they had made the Application they were unable to serve the Notice of Hearing documents and a copy of their Application to the Tenants as they had abandoned the rental suite and had not provided them with a forwarding address. The Landlord submitted that they have been unable to locate the Tenants and that they are avoiding and hampering the hearing by failing to appear.

### Analysis

Section 59(3) of the Act provides that an applicant making an Application must serve a copy of the application and the Notice of Hearing documents to the respondent within three days of receiving the paperwork from the Residential Tenancy Branch. Section 89 of the Act lists the methods in which these documents may be served to a Respondent.

In this case, I find that the Landlords had not served the hearing documents to the Tenants in accordance with sections 59(3) and 89 of the Act and as the Tenants had

not been put on notice for the claim being made by the Landlords, I was unable to proceed and hear Landlords' Application.

As a result, I dismiss the Landlords' Application, but provide leave to re-apply if they are able to locate the Tenants and serve them in accordance with the Act.

In relation to the Tenant's Application, as the Tenants did not appear for the duration of the hearing and the Landlord appeared and was ready to proceed, I dismiss the Tenants' Application without leave to reapply.

### Conclusion

For the above reasons, the Landlords' Application is dismissed **with** leave to re-apply and the Tenants' Application is dismissed **without** leave to re-apply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: May 28, 2014

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Residential Tenancy Branch

