



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

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

## **Decision**

**Dispute Codes:** OPR, MNR, FF

### **Introduction**

This hearing was convened to deal with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order for rent.

The landlord appeared but the tenant did not .

The landlord testified that the Ten Day Notice to End Tenancy for Unpaid Rent dated April 2, 2014 was posted on the tenant's door on April 2, 2014. The Notice ended the tenancy effective April 12, 2014. According to the landlord it was confirmed on April 13, 2014, that the tenant had already vacated in compliance with the Ten Day Notice to End Tenancy for Unpaid Rent.

The landlord testified that the tenant is no longer living in the unit. Therefore, the landlord's request seeking an Order of Possession is moot.

### **Preliminary Issue**

The landlord's application for dispute resolution was processed on April 22, 2014 and the Act requires that it be served on the respondent within 3 days.

Section 90 of the Residential Tenancy Act determines that a document sent by registered mail is deemed to have been served in 5 days.

Section 89(1) of the Act states that application for dispute resolution 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; (*My emphasis*)

(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).

The landlord confirmed that, on April 22, 2014, the tenant was served with the hearing package sent by registered mail, addressed to the tenant at the subject address. The applicant provided a Canada Post tracking number verifying service..

In this instance I find that the service date for the initial Notice of Hearing, sent by registered mail on April 22, 2014 was deemed under section 90 of the Act to be served effective April 27, 2014.

However, I find as a fact that the tenant had already vacated the rental unit before April 13, 2014 and therefore the respondent was no longer residing at the address used by the landlord for service of the hearing documents.

Based on the evidence before me, I find that the landlord failed to prove service by registered mail to the “*address at which the person resides*”, as specified by the Act.

Given the above, I find that the matter under dispute cannot proceed due to insufficient proof that the tenant was properly served.

Accordingly, I dismiss this application with leave to reapply, should the landlord wish to do so once a current service address for the respondent has been found.

### **Conclusion**

The landlord’s application is dismissed with leave to reapply as they were not able to prove the tenant was properly served with the hearing package

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: June 10, 2014

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Residential Tenancy Branch

