



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Pacific Asset Management Corporation  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 1:42 p.m. in order to enable him to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord's representatives attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

### Preliminary Issues – Service of Documents

Landlord representative RR (the landlord) testified that he posted the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenant's door on May 23, 2014. The tenant was deemed served with this Notice on May 26, 2014, the third day after its posting.

At the hearing, the landlord testified that the tenant abandoned the rental unit by June 6, 2014, and the landlord has possession of the rental unit. The landlord withdrew the application for an Order of Possession. The landlord's application for an Order of Possession is hereby withdrawn.

The landlord testified that he sent a copy of the landlord's dispute resolution hearing package, including the Notice of a Dispute Resolution Hearing and the landlord's application for dispute resolution, to the tenant by registered mail on June 6, 2014. He provided the Canada Post Tracking Number to confirm this registered mailing. He testified that he sent the hearing package to the tenant at the dispute address after he

discovered that the tenant had abandoned the rental unit. He testified that the tenant has not provided any forwarding address to the landlord.

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for a monetary award:

*89(1) An application for dispute resolution,...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 document]...*

At the hearing, I advised the landlord of my finding that the landlord has not served the tenant with the dispute resolution hearing package including the applicant for dispute resolution in accordance with section 89(1) of the *Act*. Although the landlord sent a copy of this package to the tenant by registered mail, this mailing to an address where the landlord knew the tenant was no longer residing does not meet the test for service of an application for a monetary award outlined in section 89(1)(c) of the *Act*. For these reasons, I dismiss all monetary aspects of the landlord's application for dispute resolution with leave to reapply.

### Conclusion

The landlord's application for an Order of Possession is withdrawn. I dismiss the remainder of the landlord's application with leave to reapply. 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 19, 2014

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Residential Tenancy Branch

