



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes                      CNR, FF, OPR, MNR

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act*. (the *Act*), I was designated to hear this matter. This hearing dealt with applications from both the landlord and the tenant under the *Act*. The landlord applied for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant applied for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

The tenant did not attend this hearing, although I waited until 11:12 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord's agent (the landlord) attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that the tenant abandoned the rental unit on or about May 8 2014, without leaving any forwarding address. For that reason and as the landlord obtained vacant possession of the rental unit on May 16, 2014, the landlord withdrew the application for an Order of Possession. The landlord's application for an Order of Possession is withdrawn.

### Tenant's Application

Rule 10.1 of the Rules of Procedure provides as follows:

**10.1 Commencement of the dispute resolution proceeding** The dispute resolution proceeding must commence at the scheduled time unless otherwise decided by the Arbitrator. The Arbitrator may conduct the dispute resolution proceeding in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

**In the absence of the tenant's participation in this hearing, I order the tenant's application dismissed without liberty to reapply.**

Background and Evidence – Landlord's Service of Application

The landlord testified that he tried to hand the tenant a copy of the landlord's dispute resolution hearing package but could not do so. He said that he has not served the tenant with a copy of his dispute resolution hearing package including the landlord's application for dispute resolution because he does not know how to contact the tenant.

Analysis – Service of Landlord's Application

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

*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]...*

The landlord has not served the tenant in a manner required by section 89(1) of the *Act*. I am not satisfied that the tenant was properly served with the landlord's application for dispute resolution.

Conclusion

I dismiss the tenant's application without leave to reapply.

The landlord's application for an Order of Possession is withdrawn.

I dismiss the landlord's application for a monetary award 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 04, 2014

