



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR MNR FF

### Introduction

This hearing dealt with an Application for Dispute Resolution filed on October 10, 2014 by the Landlord to obtain an Order of Possession for unpaid rent and a Monetary Order for unpaid rent and to recover the cost of the filing fee.

The Landlord's agent appeared at the teleconference hearing; however, no one appeared on behalf of the respondent Tenant.

### Issue(s) to be Decided

Has the Landlord proven the Tenant has been sufficiently served notice of this proceeding?

### Background and Evidence

At the outset of this proceeding the Landlord's Agent stated that his father had conducted the service and his father is currently out of the country. The Agent was not aware of the details of service of hearing documents. The Agent noted that the Tenant has since vacated the rental property.

### Analysis

Section 89(1) of the Act stipulates that an application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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 documents*].

In the absence of the respondent Tenant, the burden of proof of service of the hearing documents lies with the applicant Landlord. In this case there was insufficient evidence to prove the Tenant was served notice of this proceeding and a copy of the Landlord's application.

To find in favour of an application, I must be satisfied that the rights of all parties have been upheld by ensuring the parties have been given proper notice to be able to defend their rights. As I have found there was insufficient evidence to prove the service of documents, I dismiss the Landlord's claim, with leave to reapply.

### Conclusion

**I HEREBY DISMISS** the Landlord's claim, with leave to reapply.

This dismissal does not extend any time limits set forth in the *Residential Tenancy Act*.

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: November 21, 2014

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Residential Tenancy Branch

