



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding LEONIC INVESTMENTS INC  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR MNR

### Introduction

This hearing dealt with an Application for Dispute Resolution and was initially reviewed through the Direct Request. An interim decision was issued on October 23, 2014, to reconvene these matters to a participatory hearing.

The Landlord was issued the following Order in the October 23, 2014 decision:

**Notices of reconvened hearing are included with this decision for the Landlord to serve to the Tenants within 3 days of receipt of this decision, accordance with section 89 of the Act.**

The Landlord was represented by two people at the teleconference hearing; however, no one appeared on behalf of the respondent Tenant.

### Issue(s) to be Decided

Has the Landlord proven that 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 he had not served the Tenant with copies of Notice of Reconvened Hearing or with the October 23, 2014 interim decision. He argued that the Tenant does not answer when he knocks on the rental unit door.

### Analysis

Section 89(1) of the Act stipulates that an application for dispute resolution or a decision of the director to proceed with an application, 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 the Agent provided affirmed testimony that he had not served the Tenant with copies of the Notice of Reconvened Hearing or with the October 23, 2014 interim decision. Therefore, I find there to be insufficient evidence to prove the Tenant was served with Notice of this proceeding, in accordance with the Act.

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 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: December 05, 2014

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Residential Tenancy Branch

