



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNR OPR MNSD FF

### **Introduction:**

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) A monetary order pursuant to Section 67;
- b) An Order of Possession pursuant to Sections 46, or 47 and 55;
- c) An Order to retain the security deposit pursuant to Section 38; and
- d) An order to recover the filing fee pursuant to Section 72.

### **SERVICE:**

The tenant did not attend. The landlord gave sworn testimony that the tenant was served with the Notice to end Tenancy dated September 27, 2014 by posting it on their door and the Application for Dispute Resolution was served by registered mail. The landlord was unable to provide a tracking number to verify what happened to the registered mail and was unable to state whether or not it had been returned to her as she has a rural mailbox and had not visited it for a few days. I find the landlord was unable to provide evidence of sufficient service for the Application/Notice of Hearing documents according to sections 88 and 89 of the Act.

### **Issue(s) to be Decided:**

The tenant was issued a Notice to End Tenancy dated September 27, 2014 for repeated late payment of rent pursuant to section 47 of the Act. The landlord no longer requires an Order of Possession as the tenant vacated on October 31, 2014. Is the landlord now entitled to a Monetary Order for rental arrears and filing fee?

### **Background, Evidence and Analysis**

I find the landlord was unable to provide sufficient evidence that the tenant had been served with the Application/Notice of Hearing. Although they provided over 30 pages of receipts and photographs, they did not provide any copy of registered mail receipts. Based on Principles of Natural Justice, a party is entitled to be notified of a claim

against them and have the opportunity to respond. I find insufficient evidence that the tenant received such notification.

Furthermore, the landlord submitted a claim for a substantial amount and provided over 30 pages of evidence late. I find insufficient evidence that the tenant would have received this evidence and had an opportunity to respond.

**Conclusion:**

For the above reasons, I dismiss this Application of the landlord and give them leave to reapply within the legislated time limits.

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 02, 2014

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Residential Tenancy Branch

