



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET

### Introduction

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

- an early end to this tenancy and an Order of Possession pursuant to section 56.

The tenants did not attend this hearing, which lasted approximately 16 minutes. 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.

### Preliminary Issue – Service of Landlord's Application

The landlord testified that the tenants were served with the landlord's application for dispute resolution hearing package ("Application") on April 8, 2015, by way of posting to their rental unit door. The landlord testified that she was advised by the police on March 1, 2015, that the tenants were in jail and were not residing in the rental unit. The landlord stated that she requires an order of possession in order to remove the tenants' possessions from the rental unit. The landlord stated that the tenants are still in jail and that she does not know how else to serve them with her Application.

### Analysis – Service of Landlord's Application

Section 89(2) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows (emphasis added):

*(2) An application by a landlord under section 55 [order of possession for the landlord], 56 [application for order ending tenancy early] or 56.1 [order of possession: tenancy frustrated] must be given to the tenant in one of the following ways:*

*(a) by leaving a copy with the tenant;*

- (b) by sending a copy by registered mail to the address at which the tenant resides;*
- (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;*
- (d) by attaching a copy to a door or other conspicuous place at the **address at which the tenant resides**;*
- (e) as ordered by the director under section 71(1) [director's orders: delivery and service of documents].*

The landlord has failed to sufficiently demonstrate that the tenants were served in accordance with section 89(2) of the *Act*. The Application was delivered to the rental unit when the landlord was aware that the tenants were not residing there because they were in jail.

During the hearing, I advised the landlord that the tenants were not served with the landlord's Application at the address at which they reside, in accordance with section 89(2) of the *Act*. If the landlord is unable to serve the tenants in accordance with sections 89(2)(a) to (d) of the *Act*, she can apply for an order to serve the tenants by way of substituted service under section 71(1) of the *Act*.

During the hearing, I also advised the landlord that I was dismissing her Application with leave to reapply.

### Conclusion

The landlord's Application is dismissed 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: April 30, 2015

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Residential Tenancy Branch

