



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      O, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession. The landlord was represented at the hearing by 2 agents but the tenant did not participate in the conference call hearing. The agents testified that they served the tenant with the application for dispute resolution and notice of hearing (the "Hearing Documents") by registered mail sent to the rental unit on April 24.

### Issue to be Decided

Has the tenant been properly served with the Hearing Documents?

### Background, Evidence and Analysis

The agents testified that the tenant gave them a written notice that she would be vacating the rental unit on April 30, 2015. The tenant indeed vacated the unit on that date, but occupants who had been residing in the unit who did not have a direct tenancy relationship with the landlord and were not paying rent to the landlord remained in the rental unit after the tenant vacated. The agents testified that they sent the Hearing Documents via registered mail to the rental unit and may have sent them via registered or regular mail to the place at which the tenant is now residing. They testified that the parties now living in the rental unit have not paid rent and have refused to sign a tenancy agreement.

### Conclusion

The principles of natural justice require that the party against whom a claim is made have knowledge of the claim made against them and opportunity to respond to that claim. This is why the Act requires claimants to serve each respondent with a copy of their application for dispute resolution and the notice of hearing. Section 89 of the Act provides that when these documents are served on a tenant through registered mail, the documents must be sent to the place at which the tenant resides or to the

forwarding address provided by the tenant. In this case, the landlord was unable to prove that they served the tenant via registered mail to her new residence or to her forwarding address. I therefore determined that the hearing could not proceed as I was not satisfied that the tenant had knowledge of the claim against her. The claim is dismissed with leave to reapply.

Based on the testimony of the landlord's agents, however, I find that the landlord does not require an order of possession. Part 5 of the Residential Tenancy Regulation provides as follows:

**Abandonment of personal property**

**24** (1) A landlord may consider that a tenant has abandoned personal property if

(a) the tenant leaves the personal property on residential property that he or she has vacated after the tenancy agreement has ended, or

(b) subject to subsection (2), the tenant leaves the personal property on residential property

(i) that, for a continuous period of one month, the tenant has not ordinarily occupied and for which he or she has not paid rent, or

(ii) from which the tenant has removed substantially all of his or her personal property.

(2) The landlord is entitled to consider the circumstances described in paragraph (1) (b) as abandonment only if

(a) the landlord receives an express oral or written notice of the tenant's intention not to return to the residential property, or

(b) the circumstances surrounding the giving up of the rental unit are such that the tenant could not reasonably be expected to return to the residential property.

(3) If personal property is abandoned as described in subsections (1) and (2), the landlord may remove the personal property from the

residential property, and on removal must deal with it in accordance with this Part.

I find as a fact that this situation meets the test for abandonment. I find that the tenant gave notice that she was vacating the rental unit on April 30, that she vacated on that date, that she removed her own belongings, that she has not paid rent after that date and that she has no intention of returning to the rental unit.

The landlord may therefore treat the unit as abandoned, which means the landlord may change the locks on the unit and inventory and store the items inside for at least 60 days or discard the items if they have a total commercial value of less than \$500.00.

The landlord is not required to give any kind of notice to the persons who are currently illegally occupying the unit, but I encourage the landlord to give those persons opportunity to remove themselves and their belongings from the unit.

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 05, 2015

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Residential Tenancy Branch

