



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction and Preliminary Matter

This hearing convened as a result of a Landlord's application for dispute resolution wherein he sought an Order of Possession, a Monetary Order for unpaid rent and to recover the filing fee.

Only the Landlord and his son, A.F., appeared at the hearing. He provided affirmed testimony and was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified that when he attempted to serve the Tenants with the Notice of Hearing and his Application in the Tenants had vacated the rental unit. A.F. stated that the Landlord then served the Tenants by registered mail at the rental unit, despite the fact they had vacated.

Section 89 of the *Act* provides for service of an application for dispute resolution and provides as follows:

### **Special rules for certain documents**

**89** (1) 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*].

As the Landlord was aware the Tenants were not in the rental unit, service by registered mail to that address was not effective service as at the time of service it was not where the Tenants resided.

As I informed the Landlord and A.F. during the hearing, as the Landlord did not serve the Tenants in accordance with section 89, the Tenants were not provided notice of the hearing. To proceed in the Tenants' absence, knowing they did not have notice of the hearing, would offend the principals of natural justice. Both parties have the right to know the case against them and to be provided an opportunity to be heard.

The Landlords application is dismissed with leave to reapply.

### Conclusion

The Landlord did not serve the Tenants in accordance with section 89 and accordingly his 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: July 07, 2015

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Residential Tenancy Branch

