



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding FIRST SERVICE RESIDENTIAL BC LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, MNR, MNSD, FF

### Introduction

The landlord applies for an order of possession pursuant to a ten day Notice to End Tenancy for unpaid rent dated October 27, 2015 and for a monetary award for unpaid rent and loss of rental income.

The tenant did not attend the hearing.

The landlord reports that the tenant moved out in late December and so an order of possession is no longer sought.

### Issue(s) to be Decided

Has the tenant been duly served with the application and notice of this hearing? If so, is the landlord entitled to the monetary claim it seeks?

### Background and Evidence

The rental unit is a bachelor apartment in a condominium high rise. The tenancy started December 15, 2014 for a fixed term ending December 31, 2015. The monthly rent was \$850.00. The landlord holds a \$425.00 security deposit.

Mr. T. for the landlord testifies that the tenant was served with the application by registered mail sent to the rental unit while the tenant was living there. He produces a Canada Post receipt. The Canada Post record shows that the registered mail went "unclaimed by recipient."

He testifies that the tenant owes \$100.00 rent remaining from September 2015 and that the tenant has not paid rent for October or November. He seeks occupation rent for December as the tenant was still occupying the premises for most of that month.

### Analysis

Sections 89 and 90 of the *Residential Tenancy Act* provide that an application of this nature may be served on a tenant by registered mail to the address at which the tenant resides and that a tenant is deemed to have received the mail five days later.

I find that the service requirements have been met in this case. A respondent, whether a landlord or a tenant, cannot avoid the process by failing to claim the registered mail by which notice of the process was served..

On Mr. T.'s undisputed evidence I grant the landlord a monetary award for unpaid rent of \$1800.00 for the months September to November 2015, plus occupation rent for December 2015; a total of \$2650, as claimed. I grant the landlord recovery of its \$50.00 filing fee and authorize the landlord to retain the \$425.00 security deposit as reduction of the amount awarded.

### Conclusion

The landlord's application for an order of possession is withdrawn.

The landlord's application for a monetary award is allowed as presented. There will be a monetary order against the tenant in the amount of \$2275.00.

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: January 14, 2016

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Residential Tenancy Branch

