



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") for an Order of Possession for Unpaid Rent pursuant to section 55 and a monetary order for unpaid rent pursuant to section 67. The original application was made by direct request by the landlord. The direct request proceeding was adjourned to a participatory hearing to clarify details of the tenancy agreement, including the date rent was due.

The tenant did not attend this hearing, although I waited until 9:47 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord and his witness attended the hearing and were given a full opportunity to be heard, to present sworn testimony, and to make submissions.

### Preliminary Issue: Service of Documents (Notice of Hearing)

As this matter had been adjourned from a direct request hearing, an interim decision had been issued on November 3, 2015. That decision directed the landlord to serve the tenant with notice of this hearing in accordance with section 89 of the *Act*.

The landlord was unable to provide details of service of the Notice of Hearing for this date. The landlord testified that he had sent the Notice of Hearing by registered mail to the tenant's rental unit address. However, the landlord could not provide the date of the mailing nor could the landlord provide any receipt or documentation to prove the service of the document.

Proper service of documents is essential to the Residential Tenancy Dispute Resolution process. Service of documents is restricted by timelines and methods of service to underscore its importance. Beyond proper service, it is also essential that a party be

able to prove that they have sufficiently served the documents for a Residential Tenancy Dispute Resolution hearing.

Policy Guideline No. 12, in considering the terms of service at section 88 to 90 in the *Act* states that, when the respondent, in this case the respondent does not appear at a Dispute Resolution hearing, the applicant (in this case, the landlord) must be prepared to prove service under oath. While the landlord testified that he served the Application for Dispute Resolution by registered mail, he was unable to provide details that he should provide including the date and time of service and any other details to assist the arbitrator in determining whether the hearing documents had been sufficiently served. Prior to considering the details of the applicant's claim, the arbitrator must be satisfied that the landlord/applicant sufficient served the other party, allowing that party an opportunity to knows the case against them and attend the dispute resolution hearing.

Given the landlord's inability to provide details or evidence with respect to service, I find that the landlord was unable to prove, on a balance of probabilities that the tenant was served with the dispute resolution documents, in particular the Notice of Hearing and to prove that the tenant was aware of this dispute resolution hearing.

### Conclusion

I dismiss the landlord's application 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: January 12, 2016

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Residential Tenancy Branch

