



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPL, MNSD, FF

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (“*Act*”), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for:

- an Order of Possession for landlord’s use of property, pursuant to section 55;
- authorization to retain the tenant’s security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 10 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

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

The landlord testified that he did not know the date or the method by which the tenant was served with the landlord’s application for dispute resolution hearing package (“Application”). During the hearing, the landlord announced a few different dates when he thought the Application may have been served. The landlord also noted that he thought the Application was served by regular mail, which is not permitted by section 89 of the *Act*.

As per section 59(3) of the *Act*, the landlord is required to serve his Application upon the tenant within three days of making it. During the hearing, the landlord could not confirm the exact date or method of service under section 89 of the *Act*, making only guesses.

The landlord stated that he did not require an order of possession because the tenant had already vacated the rental unit. Therefore, the landlord’s application for an order of possession for landlord’s use of property is dismissed without leave to reapply.

At the hearing, I advised the landlord that his Application for a monetary order to retain the tenant's security deposit was dismissed with leave to reapply. I notified him that he could file a new application for dispute resolution if he wished to pursue this matter further.

### Conclusion

The landlord's Application to retain the tenant's security deposit is dismissed with leave to reapply.

The landlord's Application for an order of possession is dismissed without leave to reapply.

As the landlord was unsuccessful at this hearing, his Application to recover the \$50.00 filing fee is dismissed without leave to reapply. The landlord must bear the cost of the filing fee.

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: March 14, 2016

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Residential Tenancy Branch

