



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNR, MND, FF  
                                 MT, CNR, OPT

### Introduction

This hearing was scheduled to convene at 11:00 a.m. this date by way of conference call concerning applications made by 2 landlords as against the tenant, and an application made by the tenant as against one of the landlords, that have been joined to be heard together. The landlords have applied for an Order of Possession and a monetary order for unpaid rent or utilities; for a monetary order for damage to the unit, site or property; and to recover the filing fee from the tenant for the cost of the application. The tenant has applied for more time than prescribed to dispute a notice to end the tenancy, for an order cancelling a notice to end the tenancy for unpaid rent or utilities, and for an Order of Possession of the rental unit.

One of the named landlords attended the hearing, however the line remained open while the phone system was monitored for in excess of 10 minutes and no other participants joined the call. The landlord advised that the tenant has vacated the rental unit, but has left numerous items behind, and the rental unit has been re-rented. The landlord also advised that the other named landlord served the tenant with the Landlord Application for Dispute Resolution by handing it to a person apparently residing with the tenant.

The *Residential Tenancy Act* does not permit service of an application for dispute resolution claiming a monetary order in that manner, and specifies that:

- 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*].

In the absence of any testimony or evidence of serving the tenant in one of the methods set out in the *Act*, I cannot be satisfied that the tenant has been properly served, and I dismiss the landlords' application with leave to reapply.

The tenant has failed to attend the hearing, and therefore, I dismiss the tenant's application without leave to reapply. Further, the *Residential Tenancy Act* states that where I dismiss a tenant's application to cancel a notice to end a tenancy given by a landlord, I must grant an Order of Possession in favour of the landlord, so long as the notice is in the approved form. The tenant has provided a copy of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, and I find that it is in the approved form. Since the rental unit has been re-rented, I grant the Order of Possession effective immediately.

### Conclusion

For the reasons set out above, the tenant's application is hereby dismissed in its entirety without leave to reapply.

I hereby grant an Order of Possession in favour of the landlords effective immediately.

The balance of the landlords' application is hereby 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: September 27, 2016

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Residential Tenancy Branch