



# 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* ("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 tenant did not attend this hearing, which lasted approximately 19 minutes. The landlord's agent, KH ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that he was the rental agent for the landlord company named in this application and that he had authority to speak on its behalf at this hearing. The landlord called into the teleconference late at 9:32 a.m., when the conference began at 9:30 a.m., stating that he had "lost" his hearing paperwork.

At the outset of the hearing, the landlord confirmed that the landlord did not require an order of possession because the tenant had already vacated the rental unit. Accordingly, I advised the landlord that this portion of the landlord's application was dismissed without leave to reapply.

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

The landlord initially testified that the tenant was served with the landlord's application for dispute resolution hearing package ("Application") on August 11, 2016. When I inquired as to how service was done prior to the notice of hearing, dated August 15, 2016, the landlord changed his testimony to state that the Application was served on August 17, 2016.

The landlord said that he served the tenant's son with the Application. Then the landlord testified that he left the Application on the counter inside the rental unit and told the tenant's son about it because the tenant was not around. The landlord further stated that he saw the tenant carrying the Application at a later time, so she had received it.

The landlord said that he asked the tenant's son whether he was "of age" and he was assured that he was 19. When questioned as to the landlord's addendum to the tenancy agreement stating that the tenant's son was 17 years old and the daughter was 15 years old, as of December 2015, the landlord then said that the tenant's son must have lied to him about his age.

Section 89(2)(c) of the *Act* permits service of an application by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant. However, this is only for an order of possession application, not a monetary order. Section 89(1) of the *Act*, for a monetary claim, only permits service of an application to the tenant herself, not an adult residing with the tenant. In any event, I find that the landlord failed to show that the tenant's son is an adult.

Therefore, I find that the landlord has failed to sufficiently demonstrate that the tenant was served with the landlord's application in accordance with section 89(1) of the *Act*. The tenant did not attend this hearing. The landlord did not serve the tenant personally with the Application. Accordingly, I find that the tenant was not served with the landlord's application in accordance with section 89(1) of the *Act*.

At the hearing, I advised the landlord that I was dismissing his application for a monetary order for unpaid rent, with leave to reapply. I notified the landlord that he would be required to file a new application and pay a new filing fee if he wished to pursue orders against the tenant. I also told the landlord that he would be required to prove service, including documentary or witness evidence where possible, at the next hearing.

After giving my decision and answering the landlord's questions, the landlord continued to complain and argue that he did not agree with my decision. I advised the landlord that my decision was final and that I would send him my decision. The landlord continued to argue so I advised the landlord that I was concluding the conference.

## Conclusion

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

The landlord's application for a monetary order for unpaid rent 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: October 06, 2016

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Residential Tenancy Branch