



# 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 20 minutes. The landlord's agents, SK and VJ, appeared on behalf of the landlord. SK was the primary agent in this hearing, and testified on behalf of the landlord and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Rule 7.3 of the Rules of Procedure provides as follows:

### **7.3 Consequences of not attending the hearing**

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply

### **Preliminary Issue - Adjournment of Hearing**

The landlord's agents were unable to confirm how the tenants were served with the landlord's Application for Dispute Resolution ('Application'). The landlord did not provide, in their evidence, any proof of service or details of how the tenants were served. SK testified that the evidence package was submitted by a different employee who was not present in this hearing. SK did not know why this employee did not submit any information about how the tenants were served. The agent was unable to provide or confirm any tracking information, or the mailing address of the tenants. SK requested an adjournment in order to confirm these details.

During the hearing, I advised the landlord's agents that I was not granting an adjournment of this hearing. I did so after taking into consideration the criteria established in Rule 7.9 of the RTB *Rules of Procedure*, which includes the following provisions:

*Without restricting the authority of the arbitrator to consider the other factors, the arbitrator will consider the following when allowing or disallowing a party's request for an adjournment:*

- *the oral or written submissions of the parties;*
- *the likelihood of the adjournment resulting in a resolution;*

- *the degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment: and*
- *whether the adjournment is required to provide a fair opportunity for a party to be heard; and*
- *the possible prejudice to each party.*

In reaching my decision, I note that the landlord had ample time to prepare for this hearing. The date on the Notice of a Dispute Resolution Hearing is March 2, 2017. I find that the landlord's agents did not provide any sufficient reason for why they were not prepared for this hearing.

I find this adjournment request was made as a remedy for the landlord's lack of preparation for the hearing, and under these circumstances, I find that the landlord's agents have not met the criteria established for granting an adjournment. This hearing proceeded as scheduled.

### **Preliminary Issue - Service of the Application for Dispute Resolution**

The landlord's agents testified during the hearing that they were not able to provide details for how the tenants were served with the landlord's Application.

Section 89 of the Act establishes the following special rules for service of documents.

### ***Special rules for certain documents***

**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].*

*(2) An application by a landlord under section 55 [order of possession for the landlord], 56 [application for order ending tenancy early] or 56.1 [order of*

possession: tenancy frustrated] *must be given to the tenant in one of the following ways:*

*(a) by leaving a copy with the tenant;*

*(b) by sending a copy by registered mail to the address at which the tenant resides;*

*(c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;*

*(d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;*

*(e) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents].*

I find that the landlord has not met the requirements of sections 88 and 89 of the *Act* for service of their Application. Accordingly, I dismiss the landlord's entire application with leave to reapply.

### **Conclusion**

I deny the request from the landlord's agents for an adjournment of this hearing. I dismiss the landlord's entire application for dispute resolution 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: March 30, 2017

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Residential Tenancy Branch