



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR

### 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 unpaid rent, pursuant to section 55.

The two tenants did not attend the hearing, which lasted approximately 21 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 – Direct Request Proceeding and Service

This hearing was originally scheduled as a direct request proceeding, which is a non-participatory hearing. An "interim decision," dated March 6, 2017, was issued by an Adjudicator for the direct request proceeding. The interim decision adjourned the direct request proceeding to this participatory hearing.

The landlord was required to serve each of the tenants with a separate copy of the interim decision, notice of reconvened hearing, and written evidence within three days of receiving the interim decision and notice of hearing, as outlined in the interim decision itself. When questioned as to when he received the interim decision, the landlord could not recall.

The landlord initially testified that he served the tenants with the above documents by way of registered mail on March 31, 2017. The landlord then clarified that it was March 13, 2017 by way of registered mail. He stated that he was unable to locate the tracking numbers to confirm service of the above documents. I provided the landlord with approximately 15 minutes during the hearing in order to look through his paperwork in order to find the tracking numbers.

Residential Tenancy Branch Policy Guideline 12 states the following, in part, with respect to proof of service by registered mail:

*Where a tenant is serving a landlord by registered mail, the address for service must be where the landlord resides at the time of mailing or the address at which the landlord carries on business as a landlord...*

...

*Registered Mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available.*

...

*Proof of service by Registered Mail should include the original Canada Post Registered Mail receipt containing the date of service, the address of service, and that the address of service was the person's residence at the time of service, or the landlord's place of conducting business as a landlord at the time of service as well as a copy of the printed tracking report.*

I find that the landlord has failed to sufficiently demonstrate that the tenants were served in accordance with section 89 of the *Act*. The landlord was unable to provide receipts or tracking numbers to confirm service. At the hearing, I advised the landlord that I could not confirm that the tenants were served with the above documents in accordance with section 89 of the *Act*.

I notified the landlord that his entire application was dismissed with leave to reapply. I notified him that he would be required to file a new application for dispute resolution in order to pursue this matter further.

### Conclusion

The landlord's application 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: April 05, 2017

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Residential Tenancy Branch