



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPB, MND, MNDC, MNSD, SS, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for breach of an agreement, pursuant to section 55;
- a monetary order for damage to the rental unit and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit, pursuant to section 38;
- authorization to serve documents or evidence in a different way than required by the *Act*, pursuant to section 71; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 18 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 when he served the tenant with the landlord's application for dispute resolution hearing package. He said that it was sent by mail but he did not know whether it was registered mail or not. He explained that he sent it to the forwarding address provided by the tenant but he did not supply a copy of that email. He claimed that he did not have all of his paperwork for the hearing in front of him.

As per section 59(3) of the *Act*, the landlord is required to serve his application upon the tenant within three days of filing it. During the hearing, the landlord could not provide the date of service of his application, the exact method of service, or proof of the tenant's forwarding address.

At the hearing, I advised the landlord that his entire application was dismissed with leave to reapply, with the exception of the filing fee and the order of possession. The landlord said that he did not require an order of possession because the tenant had already vacated the rental unit. He claimed that he did not require an order for substituted service because he had the tenant's forwarding address. I notified him that he could file a new application and pay a new filing fee, if he wished to pursue this matter further.

### Conclusion

The landlord's application for an order of possession and to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of 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: June 21, 2017

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Residential Tenancy Branch