



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PEEVERCONN PROPERTIES INC  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPB, MNR, 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 agreement, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 25 minutes. The landlord's agent, MM ("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 assistant to the owner of the landlord company named in this application and he had authority to speak on behalf of the landlord company as an agent at this hearing.

At the outset of the hearing, the landlord confirmed that he was not pursuing the application for an order of possession because the tenant had vacated the rental unit and the landlord had obtained possession. Accordingly, this portion of the landlord's application is dismissed without leave to reapply.

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

The landlord testified that he thinks the tenant was served with the landlord's application for dispute resolution hearing package on December 21, 2016, but he was not sure about the date. The landlord stated that the application was sent by registered mail, but he was unable to provide a Canada Post receipt or tracking number to confirm service. He said that he did not have the mail receipt in front of him during the hearing.

The landlord stated that the tenant did not provide a forwarding address when he vacated the rental unit. He said that he did not know the tenant's residential address. He said that he mailed the application to a business address where the tenant works.

According to Residential Tenancy Policy Guideline 12:

*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.*

As the landlord was unable to provide an exact date of service, a Canada Post receipt or a verbal tracking number during the hearing, I find that the tenant was not served with the landlord's application as required by section 89 of the *Act*.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows (my emphasis added):

*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].*

I find that the landlord failed to provide sufficient evidence that the tenant was served with the landlord's application at a residential address or a forwarding address, in accordance with section 89(1) of the *Act*. The tenant did not attend this hearing. The tenant did not provide a forwarding address to the landlord. The landlord is not aware of the tenant's residential address. Service of application documents to a tenant at a business address is not permitted under section 89 of the *Act*.

At the hearing, I advised the landlord that his application for an order of possession and to recover the \$100.00 filing fee was dismissed without leave to reapply and the remainder of his application was dismissed with leave to reapply. I notified the landlord that he could file a new application for dispute resolution and pay a new filing fee if he wished to pursue this matter further but he would have to prove service in accordance with section 89 of the *Act*, at the next hearing.

I informed the landlord that he could apply for an order for substituted service pursuant to section 71 of the *Act*, prior to filing a new application, in order to serve the tenant using a method aside from section 89 of the *Act*, if required and if applicable.

I notified the landlord that information regarding service of documents could be obtained from the RTB website, printed materials at any RTB office, as well as from RTB information officers.

### 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 01, 2017

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Residential Tenancy Branch