



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Dixie Girl Holding Properties Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, FF, MT, RP, MND, MNSD. OPC

### Introduction

This decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were heard together.

### Issue(s) to be Decided

First of all, at the beginning of the hearing I informed the parties that I will not deal with all the issues that the applicants have put on the applications. For claims to be combined on an application they must related.

Section 2.3 of the Residential Tenancy Rules of Procedure states:

#### **2.3 Related issues**

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

Not all the claims on these applications are sufficiently related to the main issue to be dealt with together.

I therefore informed the parties that I would deal with the requests to cancel or uphold the notice to end tenancy, and the requests for recovery of the filing fees, and I would dismiss the remaining claims with liberty to re-apply.

### Decision reasons

The landlord testified that she is an absentee landlord and has not been involved with the service of various documents on the respondent's, and it is her partner that has the

evidence on service of documents; however her partner did not appear had today's hearing, even though I waited until well past the time at which the hearing was to start.

Section 89 of the Residential Tenancy Act states:

**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*].

In the absence of any evidence of proper service of these documents, it is my decision therefore that the landlord's application for an Order of Possession is dismissed.

It's also my decision that the landlords must bear the cost of the filing fee they paid for their application for dispute resolution.

It is also my finding, however, that the tenants did not properly serve the landlord with their application for dispute resolution, as they posted the documents on the door, and therefore the tenants application to cancel the notice to end tenancy is also dismissed.

It is also my decision that the tenants must also bear the cost of the filing fee they paid for their application.

### Conclusion

The landlords request for an Order of Possession based on the notice to end tenancy for cause had been dismissed.

The tenants request to cancel a notice to end tenancy that was given for causes been dismissed; however I will not issue an Order of Possession, as I the landlord was unable to provide evidence of the service of that notice to end tenancy.

As stated at the beginning of the conference call, all other claims on these applications are 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