



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPL MND MNSD FF O

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the Act") for: an Order of Possession for Landlord's Use pursuant to section 55; a monetary order for damage or other loss pursuant to section 67; authorization to retain the tenant's security deposit pursuant to section 38; and authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 9:42 am in order to enable the tenant to connect with this teleconference hearing scheduled for 9:30 am. The landlord and two other representatives for the landlord attended the hearing. They were given a full opportunity to be heard with respect to the landlord's application.

### Preliminary Issue: Service of Documents

The landlord and two representatives all testified that they did not serve the tenant with their Application for Dispute Resolution ("ADR") that includes the Notice of Hearing. They testified that the tenant did not attend the condition inspection; that the tenant refused to sign off on any report or accept a condition inspection report at the end of tenancy; that the tenant has provided no forwarding address; and that the landlords currently have only a phone number as contact information for the tenant. They testified that they had made attempts to contact the tenant by phoning the tenant.

The landlord testified that the tenant has avoided providing any address to the landlord but did not testify to what steps, if any they, have taken to find the tenant's address.

The landlord testified that the tenant changes her phone number regularly. The landlord testified that he had no information to indicate where the tenant was residing or any other way to contact the tenant than telephone.

Proper service of documents is essential to the Residential Tenancy Dispute Resolution process. Service of documents is restricted by timelines and methods of service to underscore its importance. It is also essential that a party be able to prove that they have sufficiently served

the documents for a Residential Tenancy Dispute Resolution hearing, including Notice of the Hearing.

Residential Tenancy Policy Guideline No. 12, in considering the terms of service at section 88 to 90 in the *Act* states that, when the respondent (in this case the tenant) does not appear at a Dispute Resolution hearing, the applicant (the landlord) must be prepared to prove service under oath. Prior to considering the details of the landlord/applicant's claim, I must be satisfied that the landlord sufficiently served the other party (the tenant), allowing that party an opportunity to know the case against them and to choose to attend the dispute resolution hearing. At this hearing, the landlord was not able to sufficiently prove that the tenant had been served with the ADR including the Notice of Hearing.

The landlord and her two representatives provided candid testimony that they had no residential address for the tenant where a notice of this hearing date could be served. Given the testimony of the landlord and the lack of knowledge as to the whereabouts of the tenant, I find that the landlord was unable to sufficiently satisfy the provisions regarding service within the Act. I find that the landlord was unable to prove that the tenant was served with the dispute resolution documents and therefore aware of this dispute resolution hearing. **I find that the landlord has not proven service of documents for this hearing.**

#### Conclusion

I dismiss the landlord's application with leave to reapply. *Any applicable timelines for this application will still apply.*

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: October 10, 2017

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Residential Tenancy Branch