



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR MNR FF

### Introduction

This hearing dealt with an application by the landlord pursuant to the *Manufactured Home Park Tenancy Act* ("the Act") for orders as follows:

- an Order of Possession pursuant to section 48;
- a Monetary Order for unpaid rent pursuant to section 60; and
- to recover the filing fee from the tenant for the cost of this application pursuant to section 65.

The tenant did not appear at the hearing. Property Manager, D.M. (the "landlord") appeared on behalf of the Park owner. D.M. was given a full opportunity to be heard, to present evidence and to make submissions. D.M. provided undisputed testimony that a 10 Day Notice to End Tenancy for Unpaid Rent ("10 Day Notice") was posted on the tenant's door on September 11, 2017. A proof of service signed by J.L. on September 11, 2017 was submitted to the hearing as part of the landlord's evidentiary package. Pursuant to sections 81 & 83 of the *Act*, the tenant is deemed to have been served with the 10 Day Notice on September 14, 2017, three days after its service.

D.M. gave testimony that the Application for Dispute Resolution and evidentiary hearing package ("Application for Dispute Resolution") were sent to the tenant by way of Canada Post Registered Mail on September 22, 2017. The landlord explained that this mail was returned to her as the mailbox to which it was sent was not equipped to receive mail. The landlord said that she handed the application for dispute and evidentiary package to the tenant on approximately September 28, 2017.

### Preliminary Issues – Service of Notice of Hearing

During the course of opening remarks, the landlord noted that the tenant resided in unit #78 but that Canada Post Registered Mail was sent to #84. The landlord said she was informed by the tenant that she cannot receive mail at #84. The landlord continued by explaining that upon return of this application for dispute resolution and evidentiary

package that she personally served the tenant with the application on approximately September 28, 2017.

I find that the landlord has failed to demonstrate that she accurately served the tenant in accordance with section 82 of the *Act*. While the landlord made a concerted effort to send the tenant notice of the hearing by way of Canada Post Registered Mail pursuant to section 82 of the *Act*, the landlord was made aware that the tenant could not receive mail at the address for service. The landlord could have re-served the tenant in accordance with section 82 of the *Act*, at the correct address. Furthermore, no proof of personal service of the application for dispute was submitted to the hearing, nor did the landlord accurately provide a date on which the tenant was served.

For these reasons, the landlord's application for an Order of Possession and a monetary award is dismissed with leave to reapply.

### Conclusion

The landlord's application for an Order of Possession and a monetary award for unpaid rent 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 *Manufactured Home Park Tenancy Act*.

Dated: November 22, 2017

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Residential Tenancy Branch