



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes            OPRM-DR, FFL

### Introduction

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

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover their filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 9:50 a.m. in order to enable them to call into this teleconference hearing scheduled for 9:30 a.m. Landlord MG (the landlord) attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

At the commencement of the hearing, the landlord testified that the tenant vacated the rental unit on January 13, 2018. As the landlords now have vacant possession of the rental unit, the landlords' application to obtain an Order of Possession based on the 10 Day Notice to End Tenancy they issued to the tenant is withdrawn.

The landlord testified that Landlord SG sent the tenant a copy of the dispute resolution hearing package to the tenant at the address of the rental unit on January 12, 2018, the day before the tenant vacated the rental unit. As the landlord did not have the Canada Post Tracking Number available and had not entered this information into written evidence, I gave the landlord an additional opportunity to call Landlord SG to determine if he had that information available. After texting and calling Landlord SG, the landlord rejoined the teleconference to advise that they had been unsuccessful in locating Landlord SG. Although the landlord requested an opportunity to provide this required information after the hearing was completed, applicants are responsible for presenting sworn and written evidence by the time the scheduled teleconference hearing has been completed. In the absence of any specific information to confirm that the tenant has been served with the landlords' application, I find that the landlords have failed to provide sufficient evidence to demonstrate that the tenant has been served with the dispute resolution hearing package in accordance with section 89(1) of the *Act*. I therefore dismiss the landlords' application with leave to reapply.

In the event that the landlords reapply, I should note that the following wording of section 89(1) of the *Act* requires that any registered mailing of the dispute resolution hearing package be sent to a tenant at the address provided to them by that tenant or at an address where the tenant currently resides.

*89(1) An application for dispute resolution,...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;...*

If a landlord cannot use any of those methods, a landlord may apply for substituted service of their package pursuant to section 71(1) of the *Act*. For more information, the landlord may wish to check the Residential Tenancy Branch's website at [www.gov.bc.ca/landlordtenant](http://www.gov.bc.ca/landlordtenant) or, after doing so, speak with one of the Branch's Information Officers by calling 604-660-1020 in the Lower Mainland.

### Conclusion

The landlords' application for an Order of Possession is withdrawn.

The landlords' application for a monetary award 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: February 01, 2018

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Residential Tenancy Branch