



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR MNRL-S FF

### Introduction

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

- An order of possession pursuant to section 55;
- a monetary order for compensation for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this teleconference hearing which lasted approximately 15 minutes. The landlord was represented by her agent (the "landlord") who attended and was given full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that she personally served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent dated January 10, 2018 (the "10 Day Notice") on that date. No copy of the 10 Day Notice was submitted into evidence. The landlord did not submit a Proof of Service form into evidence. The landlord said that she personally served the tenant with the application for dispute resolution dated January 22, 2018 on January 23, 2018. The landlord did not provide any further details regarding service.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary award?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Analysis – Service of Landlord's 10 Day Notice and Application

In accordance with Residential Tenancy Policy Guideline 12, "Where the respondent does not appear at a dispute resolution hearing, the applicant must be prepared to prove service of the notice of hearing package."

Sections 88 and 89 of the *Act* provide the manners by which documents may be served. Personal service, leaving a copy with a person, is an accepted manner of service for both a 10 Day Notice as well as an application for dispute resolution.

While the landlord has testified that she served the tenant personally with both the 10 Day Notice and the application for dispute resolution, she provided little additional information about service. The landlord did not submit any documentary evidence in support of service. She failed to submit a copy of the 10 Day Notice which she said was issued to the tenant. No Proof of Service form was submitted into evidence. While the landlord made reference to witnesses being present when she personally served the tenant, these witnesses did not provide any written statement nor did they appear at the hearing to testify as to service.

Under the circumstances, with the dearth of documentary evidence and scant details provided through testimony, I am not satisfied that the tenant was properly served with the 10 Day Notice or the application for dispute resolution.

Conclusion

I dismiss the landlord's application 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: March 20, 2018

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Residential Tenancy Branch