



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      FFL, MNDCL, MNDL, MNRL, OPR

### Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution, filed on September 14, 2018, wherein she sought an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice"), \$14,100.00 in monetary compensation for unpaid rent and damage to the rental unit and recovery of the filing fee.

Only the Landlord called into the hearing. She gave affirmed testimony and was provided the opportunity to present her evidence orally and in written and documentary form, and to make submissions to me.

The Tenants did not call into this hearing, although I left the teleconference hearing connection open until 11:32 a.m. Additionally, I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord and I were the only ones who had called into this teleconference.

As the Tenants did not call in, I considered service of the Landlord's hearing package. The Landlord testified that her realtor, R.M., personally served the Tenants with the Notice of Hearing and the Application on October 16, 2018. The Landlord stated that the reason service took so long is because the Tenants do not have a postal box, or email, and no one would "step foot on the property".

I accept the Landlord's undisputed testimony and find the Tenants were duly served with notice of this hearing and I proceeded with the hearing in the Tenants' absence.

*Preliminary Matter—Lack of Evidence filed in support of Application.*

The landlord failed to provide any evidence in support of her claim. While she stated during the hearing she had uploaded copies of the Notice, as well as photos of the rental unit and copies of invoices, those documents were not provided in evidence to me.

Hearings before the Residential Tenancy Branch are conducted in accordance with the *Residential Tenancy Branch Rules of Procedure*; Rule 2.5 reads as follows:

**2.5 Documents that must be submitted with an Application for Dispute Resolution**

To the extent possible, the applicant should submit the following documents at the same time as the application is submitted:

- a detailed calculation of any monetary claim being made;
- ***a copy of the Notice to End Tenancy, if the applicant seeks an order of possession*** or to cancel a Notice to End Tenancy; and
- copies of all other documentary and digital evidence to be relied on in the proceeding, subject to Rule 3.17 [*Consideration of new and relevant evidence*].

When submitting applications using the Online Application for Dispute Resolution, the applicant must upload the required documents with the application or submit them to the Residential Tenancy Branch directly or through a Service

[Emphasis added in ***bold italics***]

A review of branch records indicates that on September 14, 2018 the Landlord was cautioned that she had failed to submit any evidence, and in particular failed to submit a copy of the Notice.

During the hearing I offered the Landlord the opportunity to provide oral testimony as to the contents of the Notice. However, she stated that she did not have a copy of the Notice in front of her during the hearing and therefore was not provide any details as to the Notice.

Section 52 of the *Act* mandates the following:

- 52** In order to be effective, a notice to end a tenancy must be in writing and must
- (a) be signed and dated by the landlord or tenant giving the notice,
  - (b) give the address of the rental unit,
  - (c) state the effective date of the notice,
  - (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy,
    - (d.1) for a notice under section 45.1 [*tenant's notice: family violence or long-term care*], be accompanied by a statement made in accordance with section 45.2 [*confirmation of eligibility*], and
  - (e) when given by a landlord, be in the approved form.

### Conclusion

As I was not provided any evidence with respect to the Notice, I was not able to make any findings as to whether it complied with section 52. I therefore dismiss, with leave to reapply, the Landlord's claim for an Order of Possession.

Similarly, I was not provided any evidence to support the Landlord's monetary claim; this claim is also 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: October 26, 2018

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Residential Tenancy Branch