



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPUM-DR, FFL

### Introduction

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

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

"Tenant SS" did not attend this hearing, which lasted approximately 19 minutes. The landlord and tenant AS ("tenant") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant confirmed that he had permission to speak on behalf of tenant SS as an agent at this hearing.

The hearing began at 11:00 a.m. with me and the tenant present. The landlord called in late at 11:09 a.m., stating that he was busy doing other things. The hearing ended at 11:19 a.m.

At the outset of the hearing, the landlord asked for a delay in the hearing date in order to add a new claim for a monetary order for a loss of rent in the future when he re-rents the unit. I notified him that it was not possible to delay the hearing in order to add a new claim, which was not in his original application, at an unknown future time for when he is able to rent the unit. The landlord became upset and continued arguing the issue, stating that I was "overstepping" my authority and my decision was "unenforceable." He stated that another Arbitrator at the Residential Tenancy Branch ("RTB") had done the above for him. He did not provide the name of this Arbitrator, nor did he provide a file number or a copy of a written decision indicating the above was done. I notified him that I was not bound by decisions made by other Arbitrators. I informed the landlord that he could file a new application and pay a new filing fee in order to make a new claim with respect to a future loss of rent once he knew the details and information.

I notified the landlord that he could pursue his current claims made at this hearing, including the monetary order for unpaid rent and utilities for \$1,046.84. He stated that he wanted to do so. When I asked him how and when he served his application for dispute resolution to the two tenants, he said that he did so personally to the tenant and then by mail but did not provide a date or a Canada Post registered mail tracking number. The tenant denied receipt of the landlord's application, indicating he only found out about this hearing because the RTB emailed him and he called into the RTB to obtain the hearing information to call in. I notified the landlord that because he was unable to provide proof of service of his application, I could not go ahead with the hearing.

The tenant indicated that he moved out of the rental unit and the landlord agreed that he took back possession of the rental unit. Accordingly, the landlord's application for an order of possession is dismissed without leave to reapply.

Since the landlord was unable to pursue his claims at this hearing, for failure to provide proof of service of his application, the landlord's claim for the \$100.00 application filing fee is dismissed without leave to reapply.

The landlord's application for a monetary order for unpaid rent and utilities 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: November 02, 2018

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Residential Tenancy Branch