



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPRM-DR, FFL

### Introduction

On October 22, 2018, the Landlord applied for a Direct Request proceeding seeking an Order of Possession for Unpaid Rent pursuant to Section 46 of the *Residential Tenancy Act* (the “*Act*”), seeking a Monetary Order for Unpaid Rent pursuant to Section 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

On November 5, 2018, the Landlords’ Application was set down for a Dispute Resolution Proceeding on December 11, 2018 at 11:00 AM.

Both the Landlords and the Tenants attended the hearing. All in attendance provided a solemn affirmation.

The Landlords advised that they served the Notice of Hearing package and evidence by registered mail to the Tenants at the dispute address on November 5, 2018. However, the Tenants advised that they never received this package and both parties agreed that the Tenants gave up vacant possession of the rental unit on October 31, 2018. Based on this undisputed testimony, I am not satisfied that the Tenants were served the Notice of Hearing package and evidence in accordance with the *Act*.

As the Tenants have vacated the rental unit prior to the hearing, an Order of Possession is not necessary to be considered or granted. With respect to the Landlords’ claims for unpaid rent, the undisputed evidence is that the Tenants did not receive the Notice of Hearing package or evidence and they do not know the claims against them. As it would be prejudicial to the Tenants to proceed with a hearing without them knowing the full particulars of the case against them, I dismiss this portion of the Landlords’ claim with leave to reapply.

As the the Landlords were unsuccessful in their Application, I find that the Landlords are not entitled to recover the \$100.00 filing fee paid for this Application.

Conclusion

I dismiss the Landlords' Application for unpaid rent 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: December 11, 2018

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Residential Tenancy Branch