



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding VERNON NATIVE HOUSING SOCIETY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, MNDL-S, FFL

### Introduction

On November 22, 2018, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting an Order of Possession for Cause, a Monetary Order for damages to the rental unit, to apply the security deposit to the claim and to recover the cost of the filing fee. The matter was set for a participatory hearing via conference call.

### Preliminary Matter

The Landlord attended the conference call hearing; however, the Tenant did not attend at any time during the 30-minute hearing. The Landlord testified that the Tenant was served with the Proceeding Package (which sets out the details of when and how to participate in the hearing) by taping the package to the front door.

When considering if the Tenant was properly served the Proceeding Package, I refer to the Residential Tenancies Fact Sheet that states:

Within three days of the date the Proceeding Package is made available by the Residential Tenancy Branch (the “RTB”), the applicant must serve each respondent separately, even if they have the same mailing address, with the Proceeding Package as well as copies of evidence submitted with the application.

The applicant must serve the Proceeding Package and evidence on each respondent separately, either:

- in person (by personally leaving a copy with each tenant, each landlord or the landlord’s agent); or
- by registered mail; or

- for a landlord's application for an order of possession **only**: by attaching it to the door or another conspicuous place or by personally leaving a copy with an adult who apparently resides with the tenant.

The Landlord testified that they applied for Dispute Resolution to obtain an Order of Possession and to make a monetary claim. I find that the service of the Proceeding Package by taping it to the front door would have been acceptable for an Order of Possession. However, the Landlord stated that the Tenant had already moved out of the rental unit and the Landlord wished to proceed with the monetary claim at this hearing.

Although I heard the Landlord's testimony regarding the monetary claim, I find that the Tenant was not duly served with the Proceeding Package in accordance with Section 89 the Act and; therefore, I cannot make any decisions regarding this Application.

As the Landlord has made a monetary claim against the security deposit and the Tenant has vacated the rental unit without providing a forwarding address, I refer the Landlord to Section 39 of the Act for reference:

*Despite any other provision of this Act, if a tenant does not give a landlord a forwarding address in writing within one year after the end of the tenancy, the landlord may keep the security deposit or the pet damage deposit, or both, and the right of the tenant to the return of the security deposit or pet damage deposit is extinguished.*

### Conclusion

As the Proceeding Package was not served to the Tenant in accordance with Section 89 of the Act, 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: January 08, 2019

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Residential Tenancy Branch