



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, FFL

### 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; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The landlord and their counsel participated in the teleconference scheduled for 9:30 a.m. on this date. No one appeared on behalf of the tenants.

### Preliminary Issue- Are the Named Parties Tenants and were they served?

Counsel advised that the property has a "tortured history". Counsel submits that the landlord sold the property in 2009 and part of the agreement was a vendor take back mortgage. The purchaser defaulted on the mortgage and the landlord took back possession of the property. The landlord advised that she is not entirely sure who lives in the property. Counsel advised that the landlord does not have possession of a written tenancy agreement with the parties' names and terms; such as the amount payable each month. The landlord advised that she is unaware of whether there is such a document. The landlord testified that she spoke to the individual NP to obtain her name but was not provided supporting documents of such. The landlord only has the other party's first name. The landlord did not provide sufficient evidence to support that either party is an actual tenant. In addition, the landlord testified that a process server served them notice of this hearing on June 13, 2019 however; the landlord did not provide supporting evidence such as an invoice or proof of service documents to corroborate that.

Analysis

The landlord did not provide sufficient supporting documentation that the parties named are in fact tenants or that they were served in accordance with Section 89 of the Act, accordingly; I dismiss both of the landlords' applications with leave to reapply.

Conclusion

The landlords' applications are 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: July 02, 2019

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Residential Tenancy Branch