



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPRM-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, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 11 minutes. The landlord's two agents, landlord HPB ("landlord") and "landlord HB," attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Both landlord agents confirmed that they had permission to represent the landlord named in this application, at this hearing.

### Preliminary Issue – Service of the Tenant's Application

The landlord testified that he personally served the tenant with a copy of the landlord's notice of hearing, landlord-tenant fact sheet, and written evidence package on September 5, 2019. He said that he did not know if he served the landlord's application for dispute resolution to the tenant.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows (my emphasis added):

89 (1) An **application for dispute resolution** ..., when required to be given to one party by another, **must be given** in one of the following ways:  
(a) by leaving a copy with the person;

- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;*
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;*
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;*
- (e) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents].*

I find that the landlord did not serve the tenant with the landlord's application, as required by section 89(1) of the *Act*. Without this information, the tenant does not have notice of what the landlord has applied for or why the hearing is taking place, in order to respond or attend. The tenant did not appear at this hearing to confirm receipt of the landlord's application.

I notified the landlord that the landlord's application was dismissed with leave to reapply, except for the filing fee and the order of possession. The landlord confirmed that he did not require an order of possession, as the tenant moved out. I informed the landlord that the landlord would be required to file a new application, pay another filing fee and provide proof of service of all required documents at the next hearing, if the landlord chooses to pursue this matter further.

### Conclusion

The landlord's application for an order of possession and to recover the \$100.00 filing fee is dismissed without leave to reapply. The landlord's application for a monetary order for unpaid rent 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: October 28, 2019