



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding GURBARB GROUPS HOLDING  
LTD and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes                      OPR, MNDCL-S, MNRL-S, FFL

### Introduction

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

- an Order of Possession for unpaid rent, pursuant to sections 46 and 55;
- a Monetary Order for unpaid rent, pursuant to sections 26 and 67;
- a Monetary Order for damage or compensation, pursuant to section 67;
- authorization to retain the tenant's security deposit, pursuant to section 38; and
- authorization to recover the filing fee from the tenant, pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:11 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 11:00 a.m. Agent S.M. and agent A.C. for the landlord and the building manager attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlords and I were the only ones who had called into this teleconference.

### Preliminary Issue- Service

Agent S.M. testified that on November 21, 2019 he personally served the tenant with the landlord's application for dispute resolution. No proof of service documents were entered into evidence.

Residential Tenancy Branch Policy Guideline 12 (Guideline 12) states that the purpose of serving documents under the Legislation is to notify the parties being served of matters relating to the Legislation, the tenancy agreement, a dispute resolution proceeding or a review. Another

purpose of providing the documents is to allow the other party to prepare for the hearing and gather documents they may need to serve and submit as evidence in support of their position.

Guideline 12 states that where the respondent does not appear at a dispute resolution hearing, the applicant must be prepared to prove service of the notice of hearing package. Proof of service of other documents may be submitted in support of claims for dispute resolution in accordance with the Rules of Procedure.

I find that the landlord failed to prove that the tenant was served with the landlord's application for dispute resolution as no proof of service documentation was entered into evidence. Notice of a claim made against a person is a fundamental tenant of our justice system. I find that the landlord failed to prove that the tenant had notice of the landlord's claims made against him. I therefore dismiss the landlord's application for dispute resolution with leave to reapply.

At the hearing, I advised the landlord's representatives that I was dismissing the landlord's application with leave to reapply. I notified the landlord's representatives that if the landlord wished to pursue this matter further, the landlord would have to file a new application. I cautioned the landlord's representatives to be prepared to prove service at the next hearing, as per section 89 of the *Act*. I informed the landlord's representatives of the proof of service documents available to be printed from the Residential Tenancy Branch website.

### Conclusion

I dismiss the landlord's application to recover the \$100.00 filing fee without leave to reapply.

The remainder of the landlord's application 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: January 13, 2020

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Residential Tenancy Branch