



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR MNR FFL

### Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act (Act). The landlord applied for an order of possession pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (Notice) issued by the landlord, a monetary order for unpaid rent, and for recovery of the filing fee paid for this application.

This application began as an ex-parte application via the Direct Request process and was adjourned to a participatory based on the Interim Decision dated November 15, 2109, which should be read in conjunction with this decision. In that Interim Decision, the landlord was instructed to serve the Notice of Reconvened Hearing, the interim decision, and all other required documents, upon the tenant within three (3) days of receiving this decision in accordance with section 89 of the Act.

At the participatory hearing, the landlord attended the teleconference hearing. The tenant did not attend the hearing.

As the tenant did not attend the hearing, service of the Notice of Reconvened Hearing, the interim decision, and all other required documents was considered.

The landlord testified that the tenant was served by registered mail with the Direct Request documents on December 4, 2019. The landlord submitted a copy of the Canada Post receipt showing the tracking number of the registered mail.

The landlord confirmed that the registered mail receipts he provided into evidence, which showed a mailing date of November 22, 2019, did not contain the required documents for the hearing, but instead, contained a monetary claim.

Preliminary and Procedural Matters - Service of the hearing documents

The landlord confirmed that the tenant had vacated the rental unit by December 2, 2019. He was aware of this as he was scheduled to meet the tenant at the rental unit on that date. At that time, the landlord said he noticed the sliding glass door was wide open. The landlord submitted that he entered the rental unit to secure the premises and also discovered that the heating had been turned off.

The landlord confirmed that all the tenant's personal possessions had been removed and that he vacated.

Section 89(1) of the Act requires that the application for dispute resolution, which includes the notice of hearing, must be given by personally handing the documents to the tenant or by registered mail to the tenant's address where they reside or to their forwarding address.

The landlord confirmed the tenant did not reside at the rental unit address on December 4, 2019, and the landlord confirmed that he did not have a forwarding address for the tenant.

I find the hearing documents were not served to the tenant according to the requirements of section 89(1) of the Act due to the tenant vacating prior December 4, 2019, the date the landlord mailed the documents. I therefore I dismiss the landlord's application, with leave to reapply.

As I did not proceed with the landlord's application, I decline to award him recovery of the filing fee.

Conclusion

The landlord's request for an order of possession of the rental unit was moot as the tenant vacated the rental unit prior to the hearing.

The portion of the landlord's application seeking monetary compensation was dismissed with leave to reapply, due to service issues as described above.

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 9, 2020

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Residential Tenancy Branch