



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      **MNDCL, FFL, MNRL, MNDL, OPC**

### **Introduction**

This hearing was originally scheduled to deal with the landlord's monetary claim for unpaid rent filed on July 5, 2020. The landlord subsequently filed an Amendment seeking an Order of Possession for cause and to increase the monetary claim.

Both parties appeared or were represented at the hearing.

I proceeded to explore service of hearing documents upon each other. The landlord's agent initially testified that the original hearing package was posted to the tenant's door approximately one day after filing and the Amendment package was served by posting it to the tenant's door on August 26, 2020.

The tenant responded that he did not receive the original hearing package and he received the Amendment on his door on September 8, 2020.

The landlord's agent then changed her testimony to acknowledge she did not serve the original hearing package shortly after receiving it as the parties had a dispute resolution proceeding on July 20, 2020 and the landlord wanted to see what happened with that matter first. The landlord's agent also acknowledged that it was September 8, 2020 that the Amendment package was posted to the tenant's door.

The tenant requested the landlord's monetary claims be dismissed since he was not served with the original hearing package.

As for the landlord's request for an Order of Possession, both parties provided consistent statements that they had another dispute resolution proceeding and the landlord was provided an Order of Possession for cause (file number referenced on the cover page of this decision). Upon review of that decision, I confirmed the landlord was

provided an Order of Possession on October 6, 2020 with an effective date of October 31, 2020 due to the 1 Month Notice to End Tenancy for Cause the tenant filed to dispute and I determine the landlord's request for an Order of Possession under this Application for Dispute Resolution is moot. Therefore, the only outstanding matter is the landlord's monetary claim against the tenant.

As for the landlord's monetary claim, I find the landlord did not meet its burden to prove its claim was served in accordance with the Act.

Section 59 of the Act provides that an Application for Dispute Resolution must be served upon the other party within three days of making the Application for Dispute Resolution. In this case, the landlord's original proceeding package, including the Application for Dispute Resolution, was provided to the landlord by the Residential Tenancy Branch on July 7, 2020 with instruction to serve it upon the tenant by July 10, 2020. The landlord was unable to demonstrate that it met this obligation.

Section 89 provides for the ways an Application for Dispute Resolution and other required documents must be served upon the respondent. An Application for Dispute Resolution for a monetary claim must be served in a manner that complies with section 89(1). Section 89(1) provides as follows:

**89** (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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*].

Posting on the door is not a permissible method of service under section 89(1) of the Act, if in fact the landlord's original proceeding package was even posted on the door. Therefore, I find I am unsatisfied the landlord complied with section 59 or 89 in serving

the tenant with its monetary claims and I dismiss the landlord's monetary claims with leave to reapply.

Conclusion

The landlord's monetary claims are dismissed with leave to reapply.

I did not consider the landlord's request for an Order of Possession as the landlord has already been provided an Order of Possession on October 6, 2020.

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 27, 2020

---

Residential Tenancy Branch