



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPL, MNRL

### Introduction

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

- an order of possession for landlord's use of property, pursuant to section 55; and
- a monetary order for unpaid rent, pursuant to section 67.

The tenant did not attend this hearing, which lasted approximately 18 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that a female was observing the hearing with him, but she did not participate.

### Preliminary Issue – Service of Landlord's Application

The landlord stated that the tenant was not served with the landlord's application for dispute resolution hearing package. He claimed that he did not receive a copy of the application package from the Residential Tenancy Branch ("RTB") after he applied. He stated that he was able to call into the hearing with the phone number and access code because he called into the RTB before to get information about an amendment.

Accordingly, I find that the tenant was not served with the landlord's application, as required by section 89 of the *Act*. The landlord confirmed that he did not serve the tenant. The tenant did not appear at his hearing to confirm service.

I notified the landlord that his application was dismissed with leave to reapply. I informed him that he could file a new application, pay another filing fee and provide proof of service at the next hearing, if he chooses to pursue this matter further. The landlord confirmed his understanding of same.

The landlord stated that he personally served the tenant's 13-year-old minor son with the landlord's Two Month Notice to End Tenancy for Landlord's Use of Property, dated August 1, 2020 ("2 Month Notice"). I notified the landlord to consult section 88 of the *Act*, which states that personal service to an adult is permitted, not to a minor.

I informed the landlord to consult section 49 of the *Act*, which does not allow a 2 Month Notice to be issued before the end of a fixed term tenancy. The landlord confirmed that he issued the 2 Month Notice to the tenant in order to end this tenancy prior to the end of the fixed term on May 10, 2021.

I notified the landlord to consult Policy Guideline 52, which requires a written repayment plan to be issued to the tenant, prior to seeking unpaid rent from March to August 2020, during the covid-19 pandemic period. The landlord applied for unpaid rent from July to August 2020 in this application.

I informed the landlord that he could hire a lawyer to obtain legal advice or speak to an RTB information officer to obtain information only, not legal advice, if he required same. I notified the landlord that I could not provide him with legal advice during this hearing.

The landlord confirmed his understanding of the above information.

### Conclusion

The landlord's entire 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: October 09, 2020

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Residential Tenancy Branch