



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PROCAM DEVELOPMENTS  
LTD and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes     OPR-DR, 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 6 minutes. The landlord's agent ("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 he was the building manager for the landlord company named in this application and that he had permission to speak on its behalf.

At the outset of the hearing, the landlord stated that the tenant vacated the rental unit, the tenant's brother took his belongings since the tenant was in jail, and the landlord took back possession of the rental unit on October 31, 2020. I notified the landlord that the landlord's application for an order of possession was dismissed without leave to reapply.

### Preliminary Issue – Direct Request Proceeding and Service

This hearing was originally scheduled as a direct request proceeding, which is a non-participatory hearing. The direct request proceeding is based on the landlord's paper application only, not any submissions from the tenant. An "interim decision," dated November 9, 2020, was issued by an Adjudicator for the direct request proceeding. The interim decision adjourned the direct request proceeding to this participatory hearing.

The landlord was required to serve the tenant with a copy of the interim decision, the notice of reconvened hearing and all other required documents, within three days of receiving it, as outlined in the interim decision itself.

The landlord said that he served the above documents to the tenant on November 10, 2020, by way of registered mail to the rental unit, after the tenant had already vacated on October 31, 2020.

Accordingly, I find that the tenant was not served with the interim decision, notice of reconvened hearing and all other required documents, as per section 89 of the *Act*. The tenant had already vacated the rental unit on October 31, 2020, and was in jail at that time, according to the landlord.

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

### 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: January 26, 2021

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Residential Tenancy Branch