



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding WestUrban Properties Management and  
[tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      **OPR-DR, OPRM-DR, FFL**

### **Introduction**

This hearing originated as a Direct Request Proceeding and in an Interim Decision dated February 2, 2021, a participatory hearing was ordered. 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; 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 9:40 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. The property manager attended the hearing and was 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 property manager and I were the only ones who had called into this teleconference.

The property manager was advised that Rule 6.11 of the Residential Tenancy Branch Rules of Procedure prohibits the recording of dispute resolution hearings. The property manager testified that they are not recording this dispute resolution hearing.

The Interim Decision states:

**Notices of Reconvened Hearing are enclosed with this interim decision. The Landlord must 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.**

The property manager testified that the tenant was served with the above documents via registered mail addressed to the subject rental property on April 19, 2021. The property manager testified that the tenant moved out of the subject rental property on March 19, 2021 and did not provide a forwarding address.

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

*89(1) An application for dispute resolution,...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 document]...*

I find that the landlord did not serve the tenant in a manner required by section 89(1) of the *Act* because the tenants did not reside at the subject rental property when the Interim Decision and Notice of Reconvened Hearing were mailed to the subject rental property. At the hearing, I advised the property manager that I was dismissing this application with leave to reapply.

I notified the property manager that if the landlord wished to pursue this matter further, the landlord would have to file a new application. I cautioned the property manager to be prepared to prove service at the next hearing, as per section 89 of the *Act*. I informed the property manager that the landlord could apply for a substituted service order pursuant to section 71 of the *Act*, if the landlord had sufficient evidence to do so. I advised the property manager that the landlord could hire a skip tracer to locate the tenant if the landlord wished to do so.

I also note that the Interim Decision and Notice of Reconvened Hearing were served very late. As stated in the Interim Decision, the Interim Decision and Notice of Reconvened Hearing were required to be served on the tenant within three days of the

landlord's receipt of the Interim Decision. The landlord is reminded for future claims to follow the timelines set out in the *Act*.

### 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: April 27, 2021

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Residential Tenancy Branch