



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPU, OPN, MNR-S, FF

### Introduction, Preliminary and Procedural Matters-

This hearing convened to deal with the landlord's application for dispute resolution seeking remedy under the Residential Tenancy Act (Act) for:

- an order of possession of the rental unit pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (Notice) served to the tenant;
- an order of possession of the rental unit based upon the tenant's written notice;
- a monetary order for unpaid rent;
- authority to keep the tenants' security deposit to use against a monetary award; and
- to recover the cost of the filing fee.

The landlord attended; the tenants did not attend the telephone conference call hearing. As a result, service of the landlord's Application for Dispute Resolution, evidence, and Notice of Hearing (application package) was considered.

The landlord said the tenants have vacated the rental unit. The landlord she did not know when the tenants vacated, as she was out of the country until July 2021. The landlord said the tenants perhaps vacated in May or June 2021.

As to service of their application package, the landlord said her friend living in the area printed the documents and attached them to the door of the rental unit, two days after receiving the documents from the Residential Tenancy Branch (RTB).

The landlord confirmed they did not require an order of possession of the rental unit as a result of the tenants vacating the premises.

### Analysis and Conclusion

Section 59(3) of the Act requires that a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it.

Section 89(1) of the Act requires that an application for dispute resolution, involving disputes other than an order of possession of the rental unit, an early termination of the tenancy, or a frustrated tenancy, must be given by handing the documents to the person or by registered mail to the address at which the person resides, or by registered mail to a forwarding address provided by the tenant.

In the case before me, the landlord did not know when the tenants vacated the rental unit, stating that the tenants possibly vacated in May 2021.

As the landlord confirmed that the application for dispute resolution was attached to the door of the rental unit, not personally served or by registered mail, I find the landlord submitted insufficient evidence that their application for dispute resolution was served in a manner required by the Act.

Both parties have a right to a fair hearing and the tenants would not be aware of the hearing without having been served the Notice of a Dispute Resolution Hearing and application as required by the Act.

I therefore dismiss the portion of the landlord's application for unpaid monthly rent and authority to keep the tenants' security deposit, **with leave to reapply**.

Leave to reapply does not extend any applicable time limitation deadlines.

I dismiss the portion of the landlord's application for an order of possession of the rental unit, without leave to reapply, as the tenancy has ended.

As I have not considered the merits of the landlord's application, I dismiss their request to recover the cost of the filing fee, without leave to reapply.

I have not ordered the landlord to return the tenants' security deposit, as there was no evidence presented that the tenants have provided a written forwarding address to the landlord.

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 1, 2021

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Residential Tenancy Branch