



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **OPU-DR, MNU-DR, FFL**

### Introduction

This hearing, reconvened from a Direct Request Proceeding, dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession pursuant to section 55;
- a monetary order for damages and loss pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 20 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The landlord attended and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord was made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and they testified that they were not making any recordings.

The landlord testified that they served the tenant with the Interim Decision, Notice of Hearing, Substituted Service Decision by Facebook messenger as permitted in the Substituted Service decision of March 28, 2022. The substituted service decision provides:

I order the landlord to provide proof of service of the message which may include a print-out of the messenger conversation, or other documentation to confirm the landlord has served the tenant in accordance with this order.

The landlord claimed to have provided proof of service as ordered but no documentary evidence has been submitted. The landlord failed to provide any print-out of messages or other documentation showing the landlord has served the tenant in accordance with the order or at all.

I note that the Branch records indicate that the landlord was informed of their need to provide documentary evidence in support of service on May 19, 2021 and informed that no documents had been uploaded at that time.

Based on the evidence before me I am not satisfied that the landlord has served the tenants with any of the materials in accordance with the substituted service order or at all. I find the landlord's vague testimony to be insufficient to meet the evidentiary onus to establish that the respondents have been served. Consequently, I dismiss the application in its entirety, with leave to reapply. Leave to reapply is not an extension of any statutory time limits.

### Conclusion

The application is dismissed in its entirety 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: June 10, 2022

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Residential Tenancy Branch