



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPT

### Introduction and Preliminary Matters

On July 14, 2022, the Tenant applied for a Dispute Resolution proceeding seeking an Order of Possession pursuant to Section 54 of the *Residential Tenancy Act* (the “Act”).

The Tenant attended the hearing; however, the Landlord did not attend the hearing at any point during the 24-minute teleconference. At the outset of the hearing, I informed the Tenant that recording of the hearing was prohibited and she was reminded to refrain from doing so. As well, she provided a solemn affirmation.

She advised that she never received the Notice of Hearing package from the Residential Tenancy Branch. Records indicate that this package was sent to her by email on July 29, 2022. She stated that the only reason she attended the hearing was due to the fact that she happened to call into the Residential Tenancy Branch, just prior to the hearing, to ask about the status of this file, and was then provided with the details required to attend the hearing. Information on the file reflects this testimony.

When reviewing why this may have occurred, it appeared as if this was due a misspelling of the Tenant’s name on the Application, and on the email address that was provided. As such, the Tenant’s name on the Style of Cause has been amended to reflect this correction. Furthermore, as there was a typographical mistake with her email address provided, this would likely explain why she did not receive the Notice of Hearing package.

She testified that she had a written tenancy agreement with the Landlord; however, the Landlord illegally locked her out of the rental unit, with the tenancy agreement inside. Thus, the reason she was seeking an Order of Possession. She advised that the tenancy started on July 1, 2022, that rent was established at \$2,575.00 per month, and

that it was due on the first day of each month. As well, she indicated that a security deposit of \$1,287.50 was also paid. She stated that the Landlord has already removed her property from the rental unit and re-rented it.

It is clear that the Notice of Hearing package was not served in accordance with the *Act* and the Rules of Procedure, and that this was due to the Tenant providing an incorrect email address. Given that the Landlord has re-rented the rental unit already, an Order of Possession cannot be granted to the Tenant in any event. As such, I dismiss this Application without leave to reapply.

However, the Tenant has been made aware that if the Landlord has illegally and forcibly evicted her from a rental unit where the *Act* applies, she is entitled to make a new Application for a return of her personal property, and for monetary compensation for this breach of the *Act*. In addition, the Landlord is cautioned that if they took the steps of illegally evicting the Tenant without first obtaining an Order of Possession from the Residential Tenancy Branch, they should anticipate that they could be subject to significant claims of compensation or aggravated damages for substantially breaching the *Act*.

### Conclusion

Based on the above, the Tenant's Application for an Order of Possession is dismissed without 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: August 18, 2022

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Residential Tenancy Branch