# Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

## DECISION

**Dispute Codes**:  OPR-DR, MNR-DR, FFL

## Introduction

This hearing, adjourned from a Direct Request process in which a decision is made based solely on the written evidence submitted by the landlord, 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 .

While the landlord's agent ("landlord"), CC, attended the hearing by way of conference call, the tenant did not. I waited until 1:40 p.m. to enable the tenant to participate in this scheduled hearing for 1: 30 p.m. The landlord's agent 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.  During the hearing, I also confirmed from the online teleconference system that the landlord's agent and I were the only ones who had called into this teleconference.

 The landlord was clearly informed of the RTB Rules of Procedure Rule 6.11 which prohibits the recording of a dispute resolution hearing. The landlord confirmed that they understood.

At the outset of the hearing the landlord's agent confirmed that the tenant had moved out, and no longer requires an Order of Possession. Accordingly, the hearing proceeded to deal with the monetary portions of the landlord's application, and the landlord's application for an Order of Possession was cancelled.

## Preliminary Issue - Service of the Landlord's Application for Dispute Resolution

The landlord testified that the tenant was served with the landlord's application for dispute resolution hearing package, including the Notice of Hearing, on July 4, 2022 by way of posting the package on the tenant's door. The tenant did not submit any evidence for this hearing.

Section 89 of the Act sets out the requirements for service of an application for dispute resolution.

### Special rules for certain documents

89   *(1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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 documents].*

*(2) An application by a landlord under section 55 [order of possession for the landlord], 56 [application for order ending tenancy early] or 56.1 [order of possession: tenancy frustrated] must be given to the tenant in one of the following ways:*

> *(a) by leaving a copy with the tenant;*
>
> *(b) by sending a copy by registered mail to the address at which the tenant resides;*
>
> *(c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;*

> *(d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;*
>
> *(e) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents].*

As the landlord's application was not served in a manner required under section 89 of the *Act* as stated above, 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: September 14, 2022

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Residential Tenancy Branch