



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR-DR, MNR-DR, FFL

### Introduction

The Landlord filed an Application for Dispute Resolution by Direct Request (the “Application”) on April 21, 2022 seeking an order of possession for the rental unit, a monetary order to recover the money for unpaid rent, and to recover the filing fee for the Application.

This participatory hearing was convened after the issuance of a May 19, 2022 Interim Decision of an Adjudicator. The Adjudicator determined that the Landlord’s Application could not be considered by way of the Residential Tenancy Branch’s direct request proceedings, as had been originally requested by the Landlord. The Adjudicator reconvened the Landlord application to a participatory hearing as they were not satisfied with basic details in the Landlord’s Application concerning service of the 10-Day Notice.

The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on September 23, 2022. In the conference call hearing, I explained the process and provided the attending party – who was the Landlord -- the opportunity to ask questions.

### Preliminary Matter – hearing notice to the Tenant

To proceed with this hearing, I must be satisfied that the Landlord made reasonable attempts to serve the Notice of Dispute Resolution Proceeding document to the Tenant, as specified by the Adjudicator in their May 19 decision. This means the Landlord must provide proof that they served the documents at a verified address, and in a manner set out in the *Act*, allowed under s. 89, and I must accept that evidence.

In the hearing, the Landlord provided that they left the copy of the Notice of Dispute Resolution at the rental unit address on May 27, 2022. The Landlord prepared a document entitled 'Notice of Dispute Resolution Proceeding Package' dated May 22, 2022 listing the documents "served to [the Tenant]". This is signed by a witness on May 22, 2022, and writing on the document provides that "left documents by the door mail box."

The *Act* s. 89(2) stipulates that an application by a landlord for an Order of Possession 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 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 s.71 (1) [*director's orders: delivery and service of documents*];
- (f) by any other means of service provided for in the regulations.

I find the Landlord did not complete service in a manner specified in s. 89 of the *Act*. I make this finding because of the delivery method ("left a copy by the mailbox") was very indirect. There was no proof that the Tenant would receive the material. I find the Landlord did not serve the Notice of Dispute Resolution Proceeding document and other documents in a way recognized by the *Act* or the *Residential Tenancy Regulation* s. 43.

For this reason, I dismiss the Landlord's Application, with leave to reapply. The Landlord may apply for compensation. I direct the Landlord's attention to the comprehensive *Residential Tenancy Policy Guideline #12* available online.

Conclusion

For the reasons above, I dismiss the Landlord's application for an order of possession and compensation, with leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: September 27, 2022

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Residential Tenancy Branch