

## **DECISION**

Dispute Codes      OPR, MNR, O, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession for unpaid rent, a monetary order for unpaid rent, other and recovery of the filing fee. The landlord participated in the conference call hearing but the tenants did not. The landlord presented evidence that the tenants were served with the application for dispute resolution and notice of hearing by registered mail.

### Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

### Background and Evidence

On February 5, 2011 the landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent. On February 16, 2011 the landlord served the tenants with the application for dispute resolution and notice of hearing by registered mail

The landlord testified that the tenants abandoned the rental unit sometime in January 2011 and that the RCMP had been searching for them. The landlord stated that one of the tenants was found deceased February 2, 2011 and the second tenant subsequently arrested and incarcerated on February 11, 2011.

### Law

Residential Tenancy Policy Guideline **12 Service Provisions**

#### **13. PARTIES NOT SERVED**

*Where one or more parties on an application for arbitration has not been served, the arbitrator's Order will indicate this and will dismiss, or dismiss with leave to reapply, the application involving the party not served.*

### Analysis

Based on the documentary evidence and testimony I find that the tenants were not properly served with the application for arbitration as the documents were served on the tenants after the date which both tenants had gone missing/abandoned the rental unit.

Per *Residential Tenancy Policy Guideline 12 Service Provisions* I hereby dismiss the landlord's application with leave to reapply.

As the landlord has not been successful in their application they are not entitled to recovery of the \$50.00 filing fee.

### Conclusion

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: February 28, 2011

---

Residential Tenancy Branch