



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPR; MNR; MNDC, MNSD; FF

### **Introduction**

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent and late fees; to retain the security deposit in partial satisfaction of its monetary claim; and to recover the cost of the filing fee from the Tenants.

The Landlord's agent DL gave affirmed testimony at the Hearing.

### **Preliminary Matter**

At the outset of the Hearing, DL advised that the Tenants had moved out of the rental unit. Therefore, the Landlord's request for an Order of Possession is dismissed, as the Landlord has taken back possession of the rental unit.

The Landlord provided documentary evidence (RTB Hearing Checklist) indicating that the Tenants moved out of the rental unit on October 25, 2013.

DL testified that the Notice of Hearing documents were mailed to each of the Tenants, via registered mail, to the rental unit on October 24, 2013. The Landlord provided the tracking numbers for the registered documents.

Section 90 of the Act deems service by mail to be effective 5 days after mailing the documents, in this case October 29, 2013.

Section 89 of the Act allows service by registered mail to either the address at which the tenant resides or to a forwarding address provided by the tenant. In this case, the Tenants were not residing in the rental unit on October 29, 2013. Therefore, I find that the Landlord did not provide sufficient evidence that the Tenants were served with the Notice of Hearing documents.

The teleconference remained open for 15 minutes, but neither of the Tenants signed in to the conference.

**Conclusion**

The Landlord's application for an Order of Possession is dismissed.

The Landlord did not prove service of the Notice of Hearing documents upon the Tenants and therefore, the remainder of 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: December 10, 2013

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Residential Tenancy Branch

