



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR MNR MNDC FF

### Introduction

This hearing dealt with an Application for Dispute Resolution filed on May 20, 2014, by the Landlord, to obtain an Order of Possession for unpaid rent, a Monetary Order for: unpaid rent or utilities; money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, for damage to the unit, site or property, and to recover the cost of the filing fee from the Tenant for this application.

The Landlord appeared at the teleconference hearing; however, no one appeared on behalf of the respondent Tenant.

### Issues(s) to be Decided

Has the Tenant been served notice of this proceeding, in accordance with section 89 of the Act?

### Background and Evidence

The Landlord testified service of his application for Dispute Resolution and the Notice of Hearing documents were sent to the Tenant at the rental unit address. He said he thinks they were sent via regular mail and he was not sure on what date they were sent. He recalled gathering some documents for evidence but he could not say for certain if a package of evidence was submitted to the *Residential Tenancy Branch* or the Tenant.

### Analysis

Section 89 of the Act stipulates that 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*].

The Landlord thought he had sent the hearing documents to the Tenant by regular mail, but he could not provide accurate testimony as to when those documents may have been sent. Therefore, I find there to be insufficient evidence to prove the Tenant was served notice of this proceeding in accordance with the Act.

To find in favour of an application for a monetary claim, I must be satisfied that the rights of all parties have been upheld by ensuring the parties have been given proper notice to be able to defend their rights. As I have found insufficient evidence to prove the service of documents was effected in accordance with the Act, I dismiss the Landlord's claim, with leave to reapply.

As the Landlord has not been successful with his application, I find that he is not entitled to recover the cost of the filing fee from the Tenant.

### Conclusion

**I HEREBY DISMISS** the Landlord's claim, 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: July 10, 2014

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Residential Tenancy Branch

