



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

Tenant: CNR

Landlord: OPR, MNR, MNDS, MNDC, FF

### **Introduction**

This hearing was convened in response to cross - applications by the landlord and by the tenant pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows.

1. A Monetary Order for unpaid rent - Section 67;
2. An Order to keep the security deposit – Section 38
3. A Monetary Order for loss –Section 67
4. An Order to recover the filing fee for this application - Section 72.
5. To Cancel a Notice to end Tenancy for unpaid rent – Section 46

The landlord attended the conference call hearing but the tenant did not.

The landlord testified that they did not receive a Hearing package from the tenant and that the tenant vacated October 05, 2014.

The landlord testified that they sent the tenant the notice of Hearing package by registered mail to the dispute address - which the tenant had since vacated. A forwarding address was not provided by the tenant; however the landlord sent the Hearing package to the tenant's mother. The landlord did not employ other means to serve the tenant nor did they provide an Order from an Arbitrator authorizing substituted service via a means other than prescribed by the Act.

**Section 89** of the Act state as follows:

### **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 tenant vacated the rental unit and did not attend the conference call hearing their application **is dismissed**.

I am not satisfied the tenant was served with notice of this hearing pursuant to Section 89 of the Residential Tenancy Act, or that the tenant is aware of this proceeding. Therefore, **I dismiss** the landlord's application, but I do so with leave to reapply.

### **Conclusion**

The tenant's application **is dismissed**.

The landlord's application **is dismissed, with leave to reapply.**

**This Decision is final and binding on both parties.**

*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: November 04, 2014

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Residential Tenancy Branch

