



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, MNSD, FF

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. An Order to retain the security deposit - Section 38;
4. A Monetary Order for damages to the unit - Section 67; and
5. An Order to recover the filing fee for this application - Section 72.

The Landlord states that the Tenant moved out of the unit on April 30, 2016. The Landlord states that the application for dispute resolution, made May 2, 2016, was sent to the Tenant by registered mail on May 2, 2016 to the dispute address and was posted on the door of the unit. After being informed of the service requirements the Landlord attempted to change its evidence and stated that the Tenant continued to come and go from the unit for some period of time. The Landlord does not know whether the Tenant accessed its mail from the dispute address after the Tenant moved out of the unit.

Section 89(2) of the Act provides that an application for dispute resolution seeking an order of possession 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.

Where an application does not include a claim for an order of possession the landlord no longer has the option of serving the application by attaching it to the door.

Given that the Landlord changed its evidence after learning of the requirements for service I accept only the initial evidence of the Landlord that the Tenant moved out of the unit on April 30, 2016 and I find that at this point in time the Tenant no longer resided at the dispute unit. I note that by including a claim for an order of possession the Landlord was able to obtain an expedited hearing date that otherwise would not have been available to the Landlord. I consider this to be deceptive and caution the Landlord against making such claims in the future. If in fact the Tenant continued to attend the unit after moving out, this would indicate that the Landlord would have had the option of serving the application to the Tenant in person. As the Landlord did not serve the Tenant with the application for dispute resolution to the address the Tenant resides or in person, I find that the Landlord has not served the application as required under the Act. I therefore dismiss the application 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: June 01, 2016

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Residential Tenancy Branch