



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding NOETZEL CONSTRUCTION LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR  
                             FFL MNDCL MNRL OL OPR

### Introduction

This hearing was scheduled to convene at 9:30 a.m. this date by way of conference call concerning applications made by the landlords and by the tenant. The tenant has applied for an order cancelling a notice to end the tenancy for unpaid rent or utilities. The landlord has applied for an Order of Possession and a monetary order for unpaid rent or utilities; a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the tenant for the cost of the application.

An agent for the applicant landlord attended the hearing and gave affirmed testimony. However, the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony, and despite making an application for dispute resolution, no one for the tenant joined the call. The landlord's agent testified that the tenant was served with the Landlord's Application for Dispute Resolution on April 11, 2018 by posting it to the door of the rental unit. The landlord modified the application on April 12, 2018 and served the tenant again on April 12, 2018 by posting the Hearing Package to the door of the rental unit.

The *Residential Tenancy Act* does not permit service of a hearing package by posting it to the door of the rental unit where an applicant seeks a monetary order, only where the applicant is a landlord and is only applying for an Order of Possession. The landlord's agent testified that another tenant advised that the tenant has vacated the rental unit as of last night, but the landlord's agent has not attended and the landlord seeks only an Order of Possession at this time.

The *Residential Tenancy Act* also states that where I dismiss an application by a tenant disputing a notice to end a tenancy given by a landlord, I must grant an Order of Possession in favour of the landlord, so long as the notice given is in the approved form. The notice to end tenancy provided as evidence by both parties in this matter is not in the approved form. Therefore, I decline to issue an Order of Possession in favour of the landlord.

### Conclusion

For the reasons set out above, the applications of the landlord and of the tenant are both dismissed.

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: May 08, 2018

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Residential Tenancy Branch