



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR-DR, MNR-DR, FFL

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord September 13, 2022 (the “Application”). The Landlord applied as follows:

- For an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities
- To recover unpaid rent
- To recover the filing fee

The Landlord attended the hearing. Nobody attended the hearing for the Tenant. I explained the hearing process to the Landlord. I told the Landlord they are not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). The Landlord provided affirmed testimony.

The Landlord testified that the Tenant moved out of the rental unit in the last week of August. The Landlord acknowledged an Order of Possession is not required. The Landlord proceeded with their requests to recover unpaid rent and the filing fee.

### Service

The Landlord submitted evidence prior to the hearing. The Tenant did not submit evidence. I addressed service of the hearing package and evidence.

The Landlord submitted proof of serving the hearing package by registered mail with Tracking Number 429. The documents show the hearing package was sent October 31, 2022. The Landlord testified that the hearing package was sent to the rental unit.

The Landlord acknowledged the Tenant did not live at the rental unit when the hearing package was sent.

The Landlord was required to serve the hearing package on the Tenant in accordance with section 89(1) of the *Act* which states:

89 (1) An application for dispute resolution...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) by sending a copy by registered mail to the address at which the person **resides**...
- (c) if the person is a tenant, by sending a copy by registered mail to a **forwarding address** provided by the tenant;
- (d) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents];
- (e) by any other means of service provided for in the regulations [an email provided for service].

Here, the Landlord did not serve the hearing package on the Tenant at the Tenant's residence or forwarding address. The Landlord served the Tenant at the rental unit two months after the Tenant had moved out of the rental unit. This method of service does not comply with section 89(1) of the *Act* and is not sufficient service under the *Act* because there is no reason to believe the Tenant would receive documents at the rental unit when they had moved out two months prior to the documents being sent.

Given I was not satisfied of service as required by rule 3.5 of the Rules, I dismissed the Application with leave to re-apply. This decision does not extend any time limits set out in the *Act*.

### Conclusion

The Application is dismissed with leave to re-apply. This decision does not extend any time limits set out in the *Act*.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: November 29, 2022

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Residential Tenancy Branch