



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding RATESTREET INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

### **Dispute Codes**

OPR-DR, MNR-DR, MNRL-S, FFL

### **Introduction**

This hearing was convened in response to cross applications.

On October 13, 2022 the Landlord filed an Application for Dispute Resolution in which the Landlord applied for an Order of Possession, a monetary Order for unpaid rent, and to recover the fee for filing this Application for Dispute Resolution. That Application was initiated by way of a Direct Request Proceeding but was adjourned to this participatory hearing by the Adjudicator who initially considered the Application for Dispute Resolution. This Application for Dispute Resolution is the file ending with 2502.

At this hearing the Landlord withdrew the application for an Order of Possession, as the rental unit has been vacated.

On November 20, 2022 the Landlord filed a second Application for Dispute Resolution in which the Landlord applied for a monetary Order for unpaid rent, to retain the security deposit, and to recover the fee for filing this Application for Dispute Resolution. The claim for compensation for unpaid rent is a duplicate of the first claim for unpaid rent. This Application for Dispute Resolution is the file ending with 8294.

### **Issue(s) to be Decided**

Is the Landlord is entitled to a monetary Order for unpaid rent?

Is the Landlord entitled to retain the security deposit?

### Background and Evidence

The Landlord stated that on October 26, 2022 the Dispute Resolution Package relating to the file ending with 8294 and evidence submitted to the Residential Tenancy Branch in October of 2022 were sent to the Tenant at the rental unit, via registered mail. The Landlord submitted a Canada Post receipt that corroborates this statement.

In an interim decision relating to the file ending with 8294, dated November 30, 2022, the Landlord was ordered to serve the Tenant with the interim decision and the Notice of Reconvened Direct Request Proceeding, which was originally scheduled for April 18, 2023. The Landlord stated that these documents were sent to the rental unit by registered mail on December 04, 2022. The Landlord cited a Canada Post tracking number that corroborates this testimony.

The Landlord stated that on December 04, 2022 the Dispute Resolution Package relating to the file ending with 2502 and evidence submitted to the Residential Tenancy Branch on November 20, 2022 was also sent to the rental unit, via registered mail. This package contained notice of a direct request proceeding on April 18, 2023.

The Landlord stated that the Tenant moved out of the rental unit on November 30, 2022.

The Residential Tenancy Branch changed the date of the Residential Tenancy Branch hearing from April 18, 2023 to April 27, 2023. The Landlord was not obligated to provide this new date to the Tenant. This information was mailed to the Tenant by the Residential Tenancy Branch.

A member of the Residential Tenancy Branch dialed into the teleconference at the originally scheduled hearing time on April 18, 2023 and determined that neither party joined to teleconference.

### Analysis

Section 89(1)(c) of the *Residential Tenancy Act (Act)* permits a landlord to serve a tenant with an Application for Dispute Resolution relating to a monetary claim by sending a copy by registered mail to the address at which the tenant resides.

On the basis of this undisputed evidence, I find that on October 26, 2022 the Dispute Resolution Package relating to the file ending with 8294 was mailed to the address where the Tenant resided on that date, via registered mail. I therefore find that these documents were served to the Tenant in accordance with section 89(1)(c) of the *Act*.

On the basis of this undisputed evidence, I find that on December 02, 2022 the interim decision relating to the file ending with 8294, dated November 30, 2022, and the Notice of Reconvened Direct Request Proceeding for April 18, 2023 was mailed to the rental unit. As the Landlord testified that the Tenant moved out of the rental unit on November 30, 2022, I cannot conclude that these documents were served to the Tenant pursuant to section 89(1)(c) of the *Act*.

As I have insufficient evidence to determine that the Tenant was properly served with notice that there would be a hearing on April 18, 2023 in regard to the file ending with 8294, I am unable to proceed with that Application for Dispute Resolution in the absence of the Tenant. The Landlord retains the right to file another Application for Dispute Resolution for the issues outlined in the Application for Dispute Resolution ending with 8294.

On the basis of this undisputed evidence, I find that on December 02, 2022 the Dispute Resolution Package relating to the file ending with 2502 was mailed to the rental unit. As the Landlord testified that the Tenant moved out of the rental unit on November 30, 2022, I cannot conclude that these documents were served to the Tenant pursuant to section 89(1)(c) of the *Act*.

As I have insufficient evidence to determine that the Tenant was properly served with the Application for Dispute Resolution for the file ending with 2502, I am unable to proceed with that Application for Dispute Resolution in the absence of the Tenant. The Landlord retains the right to file another Application for Dispute Resolution for the issues outlined in the Application for Dispute Resolution ending with 2502.

Had the Tenant received proper notice of the hearing scheduled for April 18, 2023, there would be an expectation that the Tenant would have attended that hearing if the Tenant wished to dispute the claims made by the Landlord. Had the Tenant attended the hearing on April 18, 2023, the Tenant would have learned that the hearing had been changed to April 27, 2023. This issue is irrelevant, however, as I am not satisfied the Tenant was served with proper notice of the hearing on April 18, 2023.

Conclusion

Both Applications for Dispute Resolution have been dismissed, with leave to reapply. The Landlord retains the right to file another Application for Dispute Resolution seeking compensation for unpaid rent. The Landlord must be able to serve the Tenant with proper notice of any future proceedings.

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: April 28, 2023

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Residential Tenancy Branch