



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### Dispute Codes

MNR

### Introduction

This hearing was to deal with an application by the landlord seeking a monetary claim due to unpaid rent. The landlord filed the application on April 20, 2009 and served the tenants with notice of the application and this hearing on April 22, 2009 by registered mail. The landlord did not provide any proof of service to demonstrate what address the documents were sent to or if the package was received by the tenants.

On July 13, 2009 the landlord amended this application. The landlord seeks to increase the monetary sum being claimed for damage to the rental unit and damage or loss experience under the tenancy agreement or *Act*.

The landlord submitted two evidence packages to the *Residential Tenancy Branch* (the Branch). One was submitted on time on July 14, 2009 and the second was submitted late on July 16, 2009. The tenant was served with the same evidence on July 16, 2009.

The landlord called a witness who testified that he called an unidentified individual seeking a forwarding address for the tenants. The witness could not remember who this individual was but he had the phone number from a piece of paper discovered in the rental unit.

The landlord confirmed that there was no evidence to confirm this address is the current address at which the tenant resides.

### Issues(s) to be Decided

Has the landlord served the tenants with notice of this application and hearing as required by section 89 of the *Act*?

### Analysis

I find that the landlord's application should be dismissed with leave to re-apply. I also deny the landlord's request to amend this application as the request for an amendment was not done as required by the *Residential Tenancy Rules of Procedure*.

Section 89 of the *Act* requires that service of documents be done 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*].

I find that I can not be satisfied that the tenants were served at an address at which they currently reside. The landlord's witness could not recall who gave him the alleged forwarding address and the landlord did not provide any other evidence to confirm that the tenants' reside at this address.

As a result I find that the landlord has failed to serve the tenants notice of this application and hearing as required.

## Conclusion

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*.

I have determined that the landlord failed to serve the tenants' with notice of their application, evidence and this hearing as required by section 89 of the *Act*. As a result I dismiss this application with leave to re-apply.

Dated: July 27, 2009.

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Dispute Resolution Officer