



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      CNR, MNDC

### Introduction

This matter dealt with an application by the Tenant to cancel a Notice to End Tenancy for Unpaid Rent dated June 10, 2009 and for compensation for damage or loss under the Act or tenancy agreement.

This matter was originally scheduled for hearing on July 29, 2009, however, the Tenant did not serve the Landlords with the hearing packages as required by s. 89 of the Act so the hearing was reconvened so that the Tenant could re-serve the Landlords. At the beginning of the reconvened hearing the Tenant said that he served the Landlords with the hearing packages by registered mail on September 8, 2009.

Section 59(3) of the Act says that an applicant must serve the other Parties with his application within 3 days of making it, or within a different period specified by the director. At the hearing on July 29, 2009, the Tenant was ordered to re-serve the hearing packages within 3 days of receiving a copy of the Reconvened Hearing Notice.

Section 90 of the Act says that a document sent by mail is deemed to be received 5 days after it is mailed. Consequently, the hearing packages sent to the Landlords were deemed to have been received by them on September 14, 2009 (as the 13<sup>th</sup> was a Sunday) although as of this date they had not picked up the mail. This means that the Landlords were served only 3 days prior to the reconvened hearing. In the circumstances, I find that the Tenant's delay in serving the hearing packages on the Landlords is unreasonable and as a result, his application is dismissed with leave to reapply.

### Conclusion

The Tenant's application is dismissed 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: September 17, 2009.

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Dispute Resolution Officer