



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes      MNDC

### Introduction

This hearing dealt with the tenant's application seeking compensation due to loss or damage suffered as a result of the landlord's breach of the tenancy agreement and/or *Act*.

The tenant appeared for the hearing and provided affirmed oral testimony in addition to the documentary evidence provided in accordance with the rules of procedure. The landlord did not appear.

### *Service of Application for Dispute Resolution and Notice of Hearing:*

The tenant testified that she attempted to serve the landlord with notice of this application and hearing by registered mail. The tenant provided as evidence a photocopy of the registered mail envelop which was returned to her. A stamp on the envelop, from Canada Post, indicated that the registered packaged went unclaimed.

The tenant stated that she obtained the address she used to serve the landlord the documents through I friend. She stated that this individual was able to obtain the address of owner of the rental unit from the municipality. The tenant did not provide any evidence to confirm that the landlord actually resided at this address or conducted business as a landlord at this address.

The tenant did not send the hearing documents to the service address provided by the landlord in the tenancy agreement.

### Issues(s) to be Decided

Has the tenant served the landlord with notice of this application and hearing in accordance with section 89 of the *Act*?

### Analysis

Section 89 of the *Act* provides special rules for the service of documents related to applications for dispute resolution which seek monetary relief. When the documents are being served on a landlord, they must be served 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

The purpose of serving documents is to inform the other party of the claim being made against them and to provide them the opportunity to respond. Failure to serve documents in accordance with section 89 can result in an application for Dispute Resolution being dismissed.

In the case before me the tenant did not send the documents to the service address provided by the landlord in the tenancy agreement. Instead, the tenant obtained another address which she states was obtained from the municipality. However, the tenant did not provide any collaborating evidence to demonstrate that the address used was an address where the landlord currently resides or where the landlord conducts business. In the absence of the landlord or any evidence that the documents were received, I cannot find that the landlord was served with notice of the tenant's application or this hearing.

Therefore, I dismiss the tenant's application with leave to re-apply.

### Conclusion

The tenant's application is dismissed with leave to re-apply as the service required pursuant to section 89(1) has not been met.

Dated: November 15, 2010.

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Dispute Resolution Officer