



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

### Dispute Codes:

MND, MNDC, FF

### Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for a monetary Order for damages to the rental unit, a monetary Order for money Owed or compensation for damage or loss, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

### Preliminary Matter

The purpose of serving the Application for Dispute Resolution and the Notice of Hearing is to notify the Respondent that a dispute resolution proceeding has been initiated and to give them the opportunity to respond to the claims being made by the Applicant. When a landlord files an Application for Dispute Resolution in which the landlord has applied for a monetary Order, the landlord has the burden of proving that the tenant was served with the Application for Dispute Resolution in compliance with section 89(1) of the *Residential Tenancy Act (Act)*.

Section 89(1) of the *Act* stipulates, in part, that a landlord must serve a tenant with an Application for Dispute Resolution in one of the following ways:

- (a) by leaving a copy with the person;
- (c) by sending a copy by registered mail to the address at which the person resides;
- (d) by sending a copy by registered mail to a forwarding address provided by the tenant;  
or
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

The Landlord submitted no evidence to show that either Respondent was personally served with the Application for Dispute Resolution or Notice of Hearing and I therefore cannot conclude that either Respondent was served in accordance with section 89(1)(a) of the *Act*.

The Landlord submitted a copy of a receipt from Canada Post that shows that one package was mailed to the rental address by registered mail. The receipt indicates that the package was addressed to both Respondents.

From the information provided, I am unable to determine which of the two Respondents received the package. As I am unable to determine which of the two Respondents has been served with the Application for Dispute Resolution or Notice of Hearing, I am unable to conclude that either party has been served in accordance with section 89(1)(c) or 89(1)(d) of the *Act*.

The Landlord submitted no evidence to show the director authorized the Landlord to serve the Application for Dispute Resolution to either Respondent in an alternate manner, therefore I cannot conclude that either Respondent was served in accordance with section 89(1)(e) of the *Act*.

The Landlord submitted no evidence to cause me to conclude that either Respondent received the Application for Dispute Resolution, therefore I cannot conclude that the Application has been sufficiently served pursuant to sections 71(2)(b) or 71(2)(c) of the *Act*.

### Conclusion

As I have insufficient evidence to show that either Respondent was properly served with Application for Dispute Resolution or Notice of Hearing, I dismiss the Landlord's Application for Dispute Resolution, 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: January 27, 2011.

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Residential Tenancy Branch