



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      OPR, MND, MNR, MNSD, MNDC

### Introduction

This hearing was convened in response to an application by the landlords seeking:

1. An Order of Possession for unpaid rent; and
2. A monetary Order for damages, unpaid rent and for compensation for loss.

The landlord appeared at the hearing. The tenants did not. Under oath the landlord testified that the tenants have vacated the rental unit and he no longer required an Order of Possession.

The landlord testified that he served the tenants with the Application for Dispute Resolution hearing package by sending it by registered mail to the address where the parents of one of the tenants reside. The landlord testified that the address used was not supplied by the tenants however they know that it is the address of one of the tenant's parents and they also know that the tenants stayed there for a time after vacating the rental unit and prior to moving to Vancouver. The landlord did not have an Order under Section 71 of the *Residential Tenancy Act* allowing them to serve documents on the tenants by way of substituted service. The landlords testified that the registered mail packages were returned to them.

Section 89 of the *Residential Tenancy Act* sets out the rules for serving Applications for Dispute Resolution, it says:

### **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]*.

(2) An application by a landlord under section 55 *[order of possession for the landlord]*, 56 *[application for order ending tenancy early]* or 56.1 *[order of possession: tenancy frustrated]* must be given to the tenant in one of the following ways:

- (a) by leaving a copy with the tenant;
- (b) by sending a copy by registered mail to the address at which the tenant resides;
- (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
- (d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;
- (e) as ordered by the director under section 71 (1) *[director's orders: delivery and service of documents]*.

(3) A notice under section 94.21 *[notice of administrative penalty]* must be given in a manner referred to in subsection (1).

Based on the evidence of the landlord I am not satisfied that the tenants were served by one of the methods allowed under the Act. While the Act does state that tenants may be served by sending a copy by registered mail to the address at which the tenants reside, the evidence of the landlord is that the tenants did not supply the forwarding address used by the landlords and the landlord supplied insufficient evidence to show that the tenants were residing at the address used. Indeed the landlords testified that the registered mail packages were returned to them by Canada Post.

Based on the evidence of the landlord I am not satisfied that the tenants have had notice of the claims being made against them. I will therefore dismiss the landlord's application 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*.