



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes                      MND, MNSD, MNDC, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain a Monetary Order for damage to the unit and for money owed or compensation for damage or loss under the Act, Regulation or tenancy agreement, an Order to keep the tenants security deposit and to recover the cost of the filing fee.

The landlord states that the tenant was served by courier service to his place of work. However, the landlord can provide no evidence that the tenant was served personally and the landlord has not applied for substitute service of the hearing documents. Therefore, I can not conform from the landlords' evidence that the tenant was served according to the section 89 of the *Act*.

### Analysis

Section 89 of the Act states that hearing documents must be given in one of the following ways:

- 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*].

Section 12 of the Residential Tenancy Policy Guidelines states: Failure to prove service may result in the matter being dismissed, or dismissed with leave to reapply.

### Conclusion

To find in favour of an application, I must be satisfied that the rights of all parties have been upheld by ensuring the parties have been given proper notice to be able to defend their rights. In the absence of proof that the tenant was served with the hearing documents in accordance with the section 89 of the *Act*, I 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*.

Dated: April 12, 2011.

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Residential Tenancy Branch