



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD

### Introduction

This hearing dealt with the tenant's application pursuant to section 38 of the *Residential Tenancy Act* (the *Act*) for authorization to obtain a return of all or a portion of her security deposit. The landlords did not attend this hearing, although I waited until 9:43 a.m. in order to enable them to connect with this 9:30 a.m. hearing. The tenant attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

### Background and Evidence – Service of Tenant's Application

The tenant initially testified that she served the landlord with her application for dispute resolution package by sending it by registered mail within five days of applying for dispute resolution. I asked her to provide the Canada Post Tracking Number that would appear on one of two documents issued by Canada Post when she sent her registered letter. After searching for this number, the tenant changed her sworn testimony and said that she sent the package by regular mail to the address of the property on or about September 21, 2011. She testified that this was the only address she had for the landlords. She said that she had no written residential tenancy agreement and the landlords had refused to issue her receipts as she had requested during her tenancy.

The tenant testified that she vacated the rental unit by July 1, 2011, and has not received a return of her \$300.00 pet damage deposit paid in early March 2011 when she commenced her tenancy. She applied for a return of her \$300.00 pet damage deposit.

### Analysis – Service of Tenant's Application

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

*89(1) An application for dispute resolution,...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 document]...*

The tenant has not served the landlord in a manner required by section 89(1) of the *Act*. I am not satisfied that the landlord was properly served with the tenant's application for dispute resolution.

#### Conclusion

I dismiss the tenant'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: December 06, 2011

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Residential Tenancy Branch