



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MND, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 3:11 p.m. in order to enable the tenant to connect with this hearing scheduled for 3:00 p.m. One of the landlords (the landlord) attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

### Service of Landlords' Application

The landlord testified that on February 27, 2012, he sent a copy of the dispute resolution hearing package to the tenant by registered mail to the location where the landlord believed the tenant was working. He provided the Canada Post Tracking Number to confirm this mailing. Although the package was delivered to the business identified in the landlords' registered mail envelope, the landlord testified that he received a call from that business informing him that the tenant no longer worked for that company.

### Analysis – Service of Landlords' 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]...*

At the hearing, the landlord testified that the tenant had not advised the landlord that he could forward his mail to his employer's address. The landlords have not obtained a substituted service order from a Dispute Resolution Officer of the Residential Tenancy Branch, pursuant to section 89(1)(e) of the *Act*. In fact, the landlord testified that he is now aware that the tenant no longer works for the company where he sent the dispute resolution hearing package.

Under these circumstances, the landlords have not served the tenant in a manner required by section 89(1) of the *Act*. I am not satisfied that the tenant was properly served with the landlords' application for dispute resolution.

### Conclusion

I dismiss the landlords' 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 25, 2012

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Residential Tenancy Branch