



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNR, FF

### Introduction

This hearing was scheduled in response to an application by the landlords for a monetary order as compensation for unpaid utilities / and recovery of the filing fee. The landlords participated in the hearing and gave affirmed testimony.

The landlords testified that they served the application for dispute resolution and the notice of hearing (the “hearing package”) on the tenant by registered mail, at the address known by them to be where the tenant’s parents reside. Evidence provided by the landlords includes the Canada Post tracking number for the registered mail. The Canada Post website informs, in part, that “Recipient not located at address provided. Item being returned to Sender.” The landlords confirmed that the hearing package was returned to them. In the result, the tenant did not appear at the hearing.

### Issue(s) to be Decided

Whether the tenant has been properly served with the hearing package.

Whether the landlords are entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, the year-long fixed term tenancy was from September 1, 2010 to August 31, 2011. Monthly rent of \$1,500.00 was payable in advance on the first day of each month, and a security deposit of \$750.00 was collected. By letter dated January 1, 2011, the tenant gave “1 months notice” to end the tenancy. Subsequently, the tenant vacated the unit at the end of January 2011 and did not provide the landlords with a forwarding address. The recollection of the landlords is that new renters were found for the unit towards the end of February 2011.

Thereafter, approximately one year later by letter dated January 23, 2012, the local hydro provider informed the landlords of an outstanding hydro account in the tenant's name in the amount of \$343.71. The tenancy agreement reflects that hydro is not included in the monthly rent. The landlords then undertook to contact the tenant by way of a telephone call to her parents' home; however, the tenant's mother hung up the telephone and the landlords have not recently spoken directly with the tenant.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Section 88 of the Act speaks to **How to give or serve documents generally**. Section 89 of the Act addresses **Special rules for certain documents**, and provides in part as follows:

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*].

Following from section 89(1)(e), as above, section 71(1) of the Act which speaks to **Director's orders: delivery and service of documents**, provides in part:

71(1) The director may order that a notice, order, process or other document may be served by substituted service in accordance with the order.

Based on the documentary evidence and the affirmed / undisputed testimony of the landlords, I find that the hearing package was not served in compliance with the statutory provisions set out above. Accordingly, the landlords' application is hereby dismissed with leave to reapply.

### Conclusion

The landlords' application is hereby dismissed 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 11, 2012.

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Residential Tenancy Branch