



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, FF

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders including the following:

1. An Order to retain the security deposit - Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Tenant did not appear at the Hearing. The Landlord stated that the application for dispute resolution and Notice of Hearing (the “Application”) was served on the Tenant by registered mail and that the receipt for the registered mail was left at the Residential Tenancy Branch in Kelowna. The Landlord was unable to provide details of that receipt, such as a tracking number or date of mailing and it is noted that no receipt is present with the Landlord's application or evidence materials.

The Act provides the following requirements for service of the Application

**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*].

As the Landlord is unable to provide evidence of service of the Application, I cannot find that service has been accomplished in accordance with Section 89 of the Act and I therefore dismiss the 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: August 09, 2012.

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Residential Tenancy Branch