



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNDC, FF

### Introduction

This hearing was scheduled to hear the tenant's application for a Monetary Order for return of double the security deposit and damage or loss under the Act, regulations or tenancy agreement. Both parties appeared at the hearing.

At the commencement of the hearing I attempted to verify service of hearing documents upon each other and the Branch. The tenant initially stated the documents were served in early August 2012. I pointed out that his Application was filed August 17, 2012. The tenant changed his testimony to state the hearing documents were placed in the landlord's mailbox on August 17, 2012. The landlord stated the documents arrived by registered mail in October 2012. The tenant then changed his testimony to indicate the hearing documents were served by registered mail.

Both parties attempted to make introduce submissions unrelated to service of hearing documents. I cautioned both parties to answer the question I was asking of them. I also cautioned the parties to think carefully of the questions that I ask before answering, to ask me to clarify if necessary, and to provide the correct answer the first time. I then asked the tenant the date the registered mail was sent to the landlord to which he responded October 15, 2012.

I pointed out that the tenant had filed the Application on August 17, 2012 and that he was required to serve his Application to the landlord within three days. The tenant once again indicated he had provided me with an inaccurate answer when he had said he sent registered mail on October 15, 2012.

I refused to proceed with the hearing on the following grounds:

- Under section 59 of the Act, an applicant is required to serve their Application upon the respondent within three days of making the Application and in a manner that complies with section 89 of the Act. Section 89(1) provides that a monetary claim must be served to the respondent in person or by registered mail.

- Leaving an Application in the respondent's mailbox does not comply with the service requirements of section 89(1).
- Serving an Application by registered mail more than three days after making the Application does not comply with section 59 of the Act.

Further, applicants must be prepared to prove service of an Application and their evidence during the scheduled hearing. Where registered mail is used to serve documents the party should provide the Branch with a copy of the registered mail receipt, including tracking number and the address to which it was sent, as proof of service. Although the tenant had submitted a registered mail receipt into evidence the name of the recipient and the address were left blank. In this case, I found that the tenant was clearly unprepared to respond to my enquiries to prove service.

In light of the above, I dismiss the tenant's Application with leave. The tenant is at liberty to file another application within the time limit established under the Act and prove service of hearing documents at the next hearing.

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: November 01, 2012.

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Residential Tenancy Branch