



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenants to obtain a Monetary Order for the return of double their security and pet deposits.

The Tenants affirmed they served the Landlord S.G. with a copy of their application for dispute resolution and their hearing documents on October 5, 2012 by registered mail to the rental unit address. Canada Post receipts and tracking information was provided in the Tenants' evidence.

### Issue(s) to be Decided

Have the Landlords been served notice of this proceeding in accordance with the Act?

### Background and Evidence

The Tenants submitted evidence which indicated the Landlords were served notice of this proceeding by registered mail October 5, 2012 to the rental unit address. The Canada Post tracking information indicates the registered mail was not received by the Landlords and was subsequently returned to the Tenants.

The Tenants have knowledge that the Landlords were moving and confirm that the Landlords were not residing at the rental unit address at the time the registered mail was attempted to be delivered.

### Analysis

Section 89 of the Act stipulates that service by registered mail must be sent to the address where the respondent resides. In this case the evidence supports the Landlords were not in receipt of the Notice of hearing documents; therefore, I cannot find that service was effected in accordance with the *Act*.

To find in favour of an application for a monetary claim, I must be satisfied that the rights of all parties have been upheld by ensuring the parties have been given proper notice to be able to defend their rights. As I have found the service of documents not to have been effected in accordance with the *Act*, I dismiss the Tenants' claim, with leave to reapply.

As the Tenants have not been successful with her application, I find they must bear the burden of the cost to file their application.

Conclusion

**I HEREBY DISMISS** the Tenant's claim, 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 28, 2012.

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Residential Tenancy Branch