



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC and FF

### Introduction

This application was brought by the tenant on October 30, 2012 seeking a monetary award for the equivalent of two months' rent under section 51(2) of the Act. This section enables such an application if a tenancy has ended under a Notice to End Tenancy for landlord use and the tenant has evidence that the rental unit was not used for the purpose cited in the notice.

The landlord did not participate in the telephone conference call hearing.

While the tenant had submitted a receipt for registered mail sent on November 1, 2012, she had not submitted a copy of the associated mailing label and tracking number. When I checked the tracking number given verbally by the tenant on the Canada Post web site, it reported no tracking information on that number. The tenant said the application and notice of hearing set to the landlord had been returned unopened.

The tenant provided a second tracking number, but Canada Post recorded it as having been sent on July 18, 2012, a date the tenant stated must have been associated with her previous hearing.

When asked what address the tenant had used to serve the landlord, she said she had used the same address as she had used for the previous hearing which was the landlord's former address. However, the previous hearing accepted the notice to end tenancy for landlord use so the landlord could move in to the rental unit. Therefore, it would appear quite possible that the landlord's address is the subject rental unit.

Section 59(3) of the *Act* states that, "Except for an application referred to in subsection (6), a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director.

Section 89 of the *Act* sets out acceptable means by which an application for dispute resolution may be served on the other party.

In the present matter, taking into account the absence of the landlord from the hearing, the tenant's failure to provide a verifiable tracking number, and the uncertainty of the address used by the tenant, I must dismiss this application. However, the tenant is granted leave to reapply.

If service requirements can be proven at a subsequent hearing, it could proceed whether the respondent landlord attended or not.

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: January 24, 2013

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Residential Tenancy Branch

