



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDC MNSD FF O

### Introduction and Analysis

This hearing dealt with the tenant's Application for Dispute Resolution, seeking a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, for the return of all or part of the security deposit or pet damage deposit, for the recovery of the filing fee, and "other" although the details of dispute do not indicate "other" areas of dispute that are not already indicated above.

The tenant, the boyfriend of tenant, and Counsel for the tenant attended the hearing. As the landlord did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice") was considered. The boyfriend of the tenant testified under oath that the Notice was mailed via registered mail to the landlord's address on November 28, 2012. The tenant and the boyfriend of the tenant confirmed that the registered mail package was returned as unclaimed with a forwarding address in a different province provided by the post office on the returned package. It was also confirmed that the Notice was not mailed or forwarded to the forwarding address provided by the post office on the returned package. Subsequently, the evidence package was successfully delivered to the landlord by registered mail but did not contain the Notice, according to the tenant.

Residential Tenancy Branch Policy Guideline #12 Service Provisions requires that where a tenant is serving a landlord by registered mail, the address for service must be where the landlord resides at the time of mailing, or the address at which the landlord carries on business as a landlord. Based on the testimony provided and documentary evidence, **I find** the landlord has not been served in accordance with Policy Guideline #12 with the Notice as the evidence submitted indicates a forwarding address was provided by the post office, and the Notice was not sent via registered mail to that forwarding address.

The landlord has a right to a fair hearing and it is reasonable that the landlord would not be aware of the hearing and the conference call details without having received the Notice of a Dispute Resolution Hearing. Therefore, **I dismiss** the tenant's application **with leave to reapply**. I note this decision does not extend any applicable time limits under the *Act*.

### Conclusion

The tenant's application is dismissed with leave to reapply.

This decision does not extend any applicable time limits under the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: February 28, 2013

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Residential Tenancy Branch

