



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Nicky & Jack Enterprises Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

### **Dispute Codes:**

MNSD FF

### **Introduction**

This hearing was convened in response to an application by the tenant for the return of the security deposit and recovery of the filing fee.

The tenant attended the conference call hearing but the landlord did not. The tenant testified that they placed the Notice of Hearing package in a mailbox inside the landlord's residential property - dedicated for the remittance of rent by tenants of the landlord's property. The tenant did not employ other means to serve the landlord.

Section 89 of the Act states as follows (**emphasis for ease**)

### **Special rules for certain documents**

**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*].

I am not satisfied the landlord was served with notice of this hearing pursuant to Section 89 of the Residential Tenancy Act, or that the landlord is aware of this proceeding.

Therefore, **I dismiss** the tenant's application, but I do so **with leave to reapply**. None of the potential merits of this application were heard.

**Conclusion**

The landlord's application **is dismissed, with leave to reapply**.

**This Decision is final and binding.**

*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: April 11, 2013

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Residential Tenancy Branch