



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MALIBU INVESTMENT CORP  
and [tenant name suppressed to protect privacy]

## Decision

### Dispute Codes:

MNR, FF

### Introduction

This Dispute Resolution hearing was held to deal with an Application by the landlord for a monetary order for compensation for damage or loss under the *Residential Tenancy Act*, (the *Act*). The landlord was in attendance. The tenant did not appear.

### Preliminary Issue

The landlord testified that on March 27, 2013 the landlord sent the hearing package by registered mail to the only address that the landlord had, which was the tenant's former address that had been written on the tenant's application for tenancy. The landlord testified that the package was not received by the tenant.

Section 89 of the Act which states that an application for dispute resolution, when required to be served by the landlord to the tenant, must either be given directly to the person or sent by registered mail to the address at which the person resides or to a written forwarding address provided by the tenant.

In this instance the Notice of Hearing was sent by registered mail to a former address where the tenant resided prior to this tenancy, rather than to the tenant's current address where the tenant is now living.

The burden is on the applicant to prove that the service was within the above provisions. As the landlord served the documents to an address that was not confirmed to be that of the tenant's current residence, I find that this would not meet the definition of service by registered mail to the "address at which the person resides" and is therefore not valid service under the Act.

Given the above, I find that the matter under dispute cannot proceed because the landlord has not proven that the tenant was properly served and I therefore have no choice under the Act but to dismiss this application with leave to reapply at a later date should the landlord wish to do so, once the residential service address has been located for the respondent.

Based on evidence and testimony, I hereby dismiss this application with leave to reapply.

**Conclusion**

The landlord's application is dismissed with leave to reapply for not being served on the tenant in accordance with the Act.

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: June 20, 2013

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Residential Tenancy Branch