



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes            MND, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain an a Monetary Order for damage to the unit, site or property, for a Monetary Order for unpaid rent or utilities, an Order to keep all or part of the tenant's security deposit; for a Monetary Order for money owed or compensation for damage or loss under the Residential Tenancy Act (act), regulation to tenancy agreement; and to recover the cost of the filing fee for this application.

The landlord testified that the tenant was served the hearing documents to the dispute address after the tenants had vacated the rental unit on or about June 15, 2014 as the tenants had not provided a forwarding address to the landlord.

### Analysis

Section 89 of the *Act* states that hearing documents must be given in one of the following ways:

- 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*].

The landlord testified that she served the tenants to the dispute address after the tenants had vacated the rental unit. Consequently, I am unable to determine that the tenants were sufficiently served for the purposes of the *Act*.

Section 12 of the Residential Tenancy Policy Guidelines states: Failure to prove service may result in the matter being dismissed, or dismissed with leave to reapply.

### Conclusion

To find in favour of an application, 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. In the absence of proof that the tenants were served with the hearing documents in accordance with the section 89 of the *Act*, I dismiss the landlord's application 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: September 04, 2014

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Residential Tenancy Branch

