



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      SS

### Introduction

This hearing was convened in response to an Application for Substituted Service (the “Service Application”) made by the Landlord pursuant to Section 71 of the *Residential Tenancy Act* (the “Act”) for an order to be allowed to serve documents in a different way than required by the Act. I considered the Tenant’s Service Application on an ex parte basis, although I did hear sworn testimony from the Landlord.

The Landlord made an Application for Dispute Resolution (the “Application”) on December 11, 2014 for a Monetary Order against the Tenant including a request to retain the Tenant’s security deposit. In addition, the Landlord made the Service Application on the same date requesting to serve the Tenant a copy of her Application, the Notice of Hearing documents, and her documentary evidence in a manner that is normally not permitted under the Act.

### Service Application Background and Evidence

The Landlord testified that this tenancy ended on November 30, 2014 and she had scheduled a move out condition inspection with the Tenant to take place on the same date at 1:00 p.m. However, the Landlord’s children, who reside in the property above the rental unit, informed the Landlord that the Tenant had vacated the rental suite and had attached a note to the rental unit door.

The Landlord appeared for the scheduled condition inspection on November 30, 2014 and discovered that the written note was from the Tenant. The Landlord testified that the written note explained that the Tenant’s mail and security deposit was to be returned to a forwarding address provided in the note. The Landlord testified that it was signed and dated by the Tenant and also contained a witness signature.

The Landlord explained that she asked a work colleague to attend the forwarding address provided by the Tenant in order to forward the mail that had been delivered to the rental unit for the Tenant. However, a resident at the address informed the Landlord's work colleague that the Tenant did not reside there.

As a result, the Landlord now applies to serve the Tenant with the above documents by providing them to the Tenant's mental health worker with the intention that they will be served to the Tenant by the mental health worker.

The Landlord was asked whether she had contacted the Tenant's mental health worker to verify that she was willing and could serve the Tenant with the documents for the Landlord's Application.

The Landlord responded stating that she had not made contact with the Tenant's mental health worker and could not categorically say that the mental health worker would be willing and in a position to serve the Tenant.

### Analysis

Policy Guideline 12 to the Act deals with service of documents. With respect to orders for substituted service, the guideline states:

"An application for substituted service may be made at the time of filing the application or at a time after filing. The party applying for substituted service must be able to demonstrate two things:

- **that the party to be served cannot be served by any of the methods permitted under the Legislation, and**
- that the substituted service is likely to result in the party being served having actual knowledge of what is being served"

[Reproduced as written]

Based on the foregoing, I find that the Landlord has failed to provide sufficient information that the Tenant's mental health worker is able and willing to serve the required documents to the Tenant for the Landlord's Application.

In such a case, the Landlord would be required to submit sufficient evidence that the mental health worker had been contacted and had agreed to serve the Tenant with the required documents. However, there is no such evidence before me and therefore the Service Application must fail.

I further determine that as the Tenant has provided the Landlord with a forwarding address in writing, the Landlord is able to serve the Tenant pursuant to the Act. The Landlord was referred to Sections 89(1) (c), 90(a) and Section 38(1) of the Act.

The Landlord was informed that she can continue with her Application and pursue other service methods available to her under the Act, providing that she submits sufficient evidence that she has met her obligations under the Act in serving the Tenant.

### Conclusion

The Landlord's Service Application is dismissed. The Landlord is still at liberty to pursue other methods of service as permitted by 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: December 23, 2014

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Residential Tenancy Branch

