



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Coldwell Banker Prestige Realty  
and [tenant name suppressed to protect privacy]

## **DECISION**

### **Dispute Codes:**

**MND, MNDC, MNSD, FF**

### **Introduction**

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested compensation for damage to the rental unit; damage or loss under the Act, to retain the security deposit and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The agent for the landlord provided affirmed testimony that on August 28, 2014 copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenant via registered mail. During the hearing the landlord provided a Canada Post tracking number.

The landlord believes the tenant vacated the unit sometime in March 2014; he has yet to provide a written forwarding address to the landlord. The tenant's sister, an occupant, was in the unit at the end of the tenancy. The registered mail was sent to the sister's address. The landlord had no evidence that the tenant was residing with his sister. The registered mail was returned to the landlord.

The landlord also served the tenant with Notice of this hearing by personal delivery to the tenant's sister. No evidence confirming the sister gave the documents to the tenant was supplied.

Section 89 of the Act sets out service requirements when making a monetary claim:

**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 could not prove where the tenant resides. The tenant has not given a forwarding address, as required by the Act and no evidence was supplied proving the tenant was residing with his sister. Therefore, I was unable to find that service of the hearing documents was completed, to a forwarding address supplied by the tenant or to where he resides.

Further, personal service to the tenant's sister does not meet the requirements of section 89 of the Act. There was no evidence before me that the tenant has explicitly assigned his sister as his agent, for the purpose of document service, in accordance with the legislation.

Therefore, I find that the application is dismissed with leave to reapply within the legislated time-frame.

### Conclusion

The application is dismissed with leave to reapply within the legislated time-frame.

This decision is final and binding 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: March 23, 2015

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Residential Tenancy Branch

