



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes:

MNDC, MNR, MNSD, FF

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss; for a monetary Order for unpaid rent; to keep all or part of the security deposit; and to recover the fee for filing this Application for Dispute Resolution.

### Issue(s) to be Decided

Is the Landlord entitled to compensation for unpaid rent and damage to the rental unit?  
Is the Landlord entitled to retain all or part of the security deposit?

### Background and Evidence

The Agent for the Landlord stated that on October 10, 2014 the Applications for Dispute Resolution and Notices of Hearing were sent, via registered mail, to a forwarding address provided by the Tenants. She stated that the documents were placed on one envelope that was addressed to both Tenants. She stated that the package was unclaimed and was returned to the Landlord by Canada Post.

### Analysis

The purpose of serving the Application for Dispute Resolution and the Notice of Hearing to tenants is to notify them that a dispute resolution proceeding has been initiated and to give them the opportunity to respond to the claims being made by the landlord. When a landlord files an Application for Dispute Resolution in which the landlord has applied for a monetary Order, the landlord has the burden of proving that each tenant was served with the Application for Dispute Resolution in compliance with section 89(1) of the *Residential Tenancy Act (Act)*.

Section 89(1) of the *Act* stipulates, in part, that a landlord must serve a tenant with an Application for Dispute Resolution in one of the following ways:

(a) by leaving a copy with the person;

- (c) by sending a copy by registered mail to the address at which the person resides;
- (d) by sending a copy by registered mail to a forwarding address provided by the tenant;  
or
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

The evidence shows that the Applications for Dispute Resolution and the Notices of Hearing were mailed to the forwarding address provided by the Tenant. As the documents were mailed in one envelope that was addressed to both Tenants, I am unable to conclude which Tenant has been served in accordance with section 89(1)(d) of the *Act*. As I am unable to determine which of the two Tenants has been served with the Application for Dispute Resolution, I am unable to proceed with the hearing in the absence of the Tenant.

As the Landlord has failed to establish that either Tenant has been served with the Application for Dispute Resolution, I dismiss the Application, with leave to reapply.

#### Conclusion

The Landlord retains the right to file another Application for Dispute Resolution for these matters.

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: May 22, 2015

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Residential Tenancy Branch

