



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes            MNDC, AAT, FF

### Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- an order to allow access to or from the rental unit for the tenants or the tenants' guests, pursuant to section 70; and
- authorization to recover the filing fee for this application from the landlords, pursuant to section 72.

The two landlords did not attend this hearing, which lasted approximately 31 minutes. The two tenants, tenant CS ("tenant") and "tenant PC" attended the hearing and were each given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

### Preliminary Issue – Service of Tenants' Application

The tenant testified that the two landlords were served with the tenants' application for dispute resolution hearing package ("Application") on October 23, 2015, by way of registered mail. The tenants did not submit a Canada Post receipt to confirm this service, with their Application. The tenant testified that she could not locate the receipt to confirm this mailing. The tenant spent approximately 20 minutes during this hearing to search for this receipt, but was unsuccessful. The tenant stated that the package was returned to her, so she later posted the package on the landlords' door.

The tenant stated that the package was sent to the landlords' residence that was next door to the rental unit. The tenant explained that the tenants had already vacated their rental unit but she went in person to check if the landlords were residing next door and saw them, during the time that the Application was mailed. She stated that the landlords live out of country for half the year but had returned to their home at the time that the Application was mailed.

The tenant confirmed that the landlords' incorrect address was indicated on the tenants' Application, as only the rental unit address was included for them.

Analysis – Service of Tenants' Application

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows:

- 89 (1) An application for dispute resolution...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;*
  - ...*
  - (e) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents].*

Residential Tenancy Branch Policy Guideline 12 states the following with respect to proof of service by registered mail:

*Where a tenant is serving a landlord by registered mail, the address for service must be where the landlord resides at the time of mailing or the address at which the landlord carries on business as a landlord...*

*...*

*Registered Mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available.*

*...*

*Proof of service by registered mail should include the original receipt given by the post office and should include the date of service, the address of service, and that the address of service was the person's residence at the time of service, or the landlord's place of conducting business as a landlord at the time of service.*

I find that the tenants have failed to sufficiently demonstrate that the landlords were served in accordance with section 89(1) of the *Act*. The tenants were unable to provide a receipt or tracking number to confirm service. Posting of an application to the door is not permitted by section 89(1) of the *Act* and therefore, I cannot consider this service method.

During the hearing, I advised the tenants that I was unable to confirm that the landlords were properly served with the tenants' Application by way of registered mail in accordance with section 89(1) of the *Act*, as they failed to provide a receipt or tracking number with their Application.

I advised the tenants that I was dismissing their Application for a monetary order for money owed or compensation for damage or loss under the *Act, Regulation* or tenancy agreement and an order to allow access to or from the rental unit for the tenants or the tenants' guests, with leave to reapply.

I advised the tenants they would be required to file a new application and pay another filing fee if they wished to pursue this matter further. I further advised the tenants that they were not entitled to recover their \$50.00 filing fee paid for this Application. I suggested that the tenants speak with an information officer at the Residential Tenancy Branch if they required information regarding service methods and proof of service.

### Conclusion

The tenants' Application for a monetary order for money owed or compensation for damage or loss under the *Act, Regulation* or tenancy agreement and an order to allow access to or from the rental unit for the tenants or the tenants' guests, is dismissed with leave to reapply.

The tenants' application to recover the \$50.00 filing fee is dismissed without 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: November 26, 2015

---

Residential Tenancy Branch

