



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes                      MNDC, MNSD, OLC, RPP, FF

### Introduction

This hearing was convened in relation to the tenant's application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to obtain a return of all or a portion of his security deposit pursuant to section 38;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order requiring the landlord to return the tenant's personal property pursuant to section 65; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

The landlord did not attend the hearing, although I waited until 1112 in order to enable the landlord to connect with this teleconference hearing scheduled at 1100. The tenant attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

### Preliminary Issue Service

Service of the dispute resolution package in an application such as the tenant's must be carried out in accordance with subsection 89(1) of the Act:

An application for dispute resolution ... when required to be given to one party by another, must be given in one of the following ways:

- (1) An application for dispute resolution ... 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;...

At the hearing the tenant indicated that he served the dispute resolution documents to the landlord by registered mail. The registered mail was sent to the rental unit address. The documents were not retrieved and were returned to the tenant.

The tenant submits that the landlord resides at the rental unit because, "to his knowledge", when the tenant vacated the landlord took over the property. The tenant bases this on the absence of evidence that the landlords rerented or sold the rental unit.

On the basis of the evidence provided to me by the tenant, I am find that the tenant has failed to show on a balance of probabilities that the landlord resides at that address. The tenant asks me to make inferences that the evidence cannot support: the evidence provided by the tenant that the landlord is currently living at the rental unit is equivocal.

It is possible that the rental unit has been rented to another individual. It is possible that the rental unit has been sold. Without more evidence, I am not satisfied that this address is an appropriate address for service of the landlord pursuant to subsection 89(1) of the Act. On this basis, the tenant has not served the landlords pursuant to subsection 89(1) of the Act. As the tenant has not proven that the landlord has been provided with proper notice of the hearing, I cannot proceed with the tenant's application. On this basis, the tenant's application is dismissed with leave to reapply.

At the hearing the tenant informed me that there is an outstanding order of this Branch in the amount of \$6,400.00 in the landlords' favour. The tenant is cautioned, should he elect to reapply, that paragraph 72(2)(b) of the Act establishes that a landlord may deduct the amount of any order by the Residential Tenancy Branch from a security deposit otherwise due to the tenant.

### Conclusion

The tenant's application is dismissed with leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under subsection 9.1(1) of the Act.

Dated: March 04, 2016

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Residential Tenancy Branch

