



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDC MNSD FF

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("the *Act*") for authorization to obtain a return of all or a portion of her security deposit pursuant to section 38 and authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The landlord did not attend this hearing, although I waited until 1:49 pm in order to enable the landlord to connect with this teleconference hearing scheduled for 1:30 pm. The tenant attended the hearing and was given a full opportunity to be heard, to present sworn testimony, and to make submissions with respect to her application.

### Preliminary Issue: Service

The tenant testified that she sent her Application for Dispute Resolution ("ADR") by registered mail on or about September 14, 2015. The tenant was unable to submit a copy of a Canada Post receipt to verify this testimony although she was provided with additional time to do so.

Proper service of documents is essential to the Residential Tenancy Dispute Resolution process. Service of documents is restricted by timelines and methods of service to underscore its importance. Beyond proper service, it is also essential that a party be able to prove that they have sufficiently served the documents for a Residential Tenancy Dispute Resolution hearing.

Residential Tenancy Policy Guideline No. 12, in considering the terms of service at section 88 to 90 in the *Act* states that, when the respondent (in this case the landlord) does not appear at a Dispute Resolution hearing, the applicant must be prepared to **prove service** under oath. The tenant testified that she served the Application for Dispute Resolution package to the landlord by registered mail. However she was unable

to produce evidence to support this testimony or any other details to assist in the arbitrator in determining whether the hearing documents had been sufficiently served.

Prior to considering the details of the applicant's claim (the substance of the application and the jurisdiction of the Residential Tenancy Branch), the arbitrator must be satisfied that the tenant/applicant sufficiently served the other party, allowing that party an opportunity to know the case against them and attend the dispute resolution hearing.

Given the lack of detail and evidence with respect to service, I find that the tenant was unable to prove that the landlord was served with the dispute resolution documents and was therefore aware of this dispute resolution hearing.

### Conclusion

I dismiss the tenant's application with 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: March 15, 2016

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Residential Tenancy Branch

