



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding FORREST TERRACE APARTMENTS  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, MND, MNDC, MNSD, O, FF

### Introduction

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

- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenants' security deposit in partial satisfaction of the monetary order requested, pursuant to section 38;
- other unspecified remedies; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two tenants did not attend this hearing, which lasted approximately 7 minutes. The landlord's agent, EJ ("landlord") 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 of Landlord's Application

The landlord testified that the tenants were served with the landlord's application for dispute resolution hearing package ("Application") by way of registered mail. The landlord could not locate the receipt and could not confirm the date of service. The landlord testified that the Application was returned back to the landlord.

The landlord testified that the tenants were served with the Application at the rental unit address. She stated that the landlord was aware that the tenants had already abandoned the rental unit at the time that the Application was mailed to them. She said that the tenants did not provide any written forwarding address to the landlord and she did not know where they were.

## Analysis – Service of Landlord's Application

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

*89 (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;...*

*(c) by sending a copy by registered mail to the **address at which the person resides** ...;*

*(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].*

I find that the landlord has failed to provide a date of service and that the tenants were served at an address at which they reside, in accordance with section 89(1) of the *Act*. The tenants did not attend this hearing. The landlord knew that the tenants had already abandoned the rental unit where the Application was sent after the tenants vacated.

As the landlord has failed to prove service in accordance with section 89(1) of the *Act*, I find that the tenants were not served with the landlord's Application. At the hearing, I advised the landlord that I was dismissing the landlord's Application with leave to reapply. I advised the landlord that the landlord could apply for an order for substituted service under section 71 of the *Act*, if required.

## Conclusion

The landlord's Application to recover the \$50.00 filing fee for this Application is dismissed without leave to reapply. The landlord must bear the cost of this filing fee. The remainder of the landlord'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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: April 25, 2016

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Residential Tenancy Branch