



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      SS

### Introduction

On April 14, 2016 the applicant Landlord applied for an order allowing them to serve the respondent Tenant with an application for Dispute Resolution and the Notice of Hearing documents in a manner other than permitted by section 89 of the Act.

### Background and Evidence

On March 21, 2016 the Landlord filed an application for Dispute Resolution seeking a Monetary Order, as referenced on the front page of this Decision.

The Landlord submitted a written statement titled "Proof of Service" which outlined the dates on which the Landlord attempted 8 times to serve the Tenant with copies of his March 21, 2016 application for Dispute Resolution and Notice of Hearing Documents.

The Landlord stated in his submission the Tenant continued to refuse to open the door to accept service of his documents. As a result the Landlord arranged to have an RCMP Officer attend the Tenant's residence with them to assist with service of his documents to the Tenant.

The Landlord submitted evidence of an RCMP card listing a file number to support his statement that on April 7, 2016 at approximately 12:00 p.m. the Landlord, his wife, father, and an RCMP Officer attended the Tenant's residence. The Landlord's statement continued as follows:

*My wife knocked on the door and Mr. [Tenant's last name] roommate responded to us through the window we informed him we wanted to talk to Mr. [Tenant's last name]. Mr. [Tenant's last name] responded through the window and we informed him we are here to serve him. He told us to leave the papers at the door and the RCMP confirmed with him that he would like us to do that.*

[Reproduced as written]

### Analysis

Section 89(1) of the Act stipulates that an application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to a landlord, 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;

Section 71(2)(c) of the *Act* provides that the director may make order that a document not served in accordance with section 88 or 89 is sufficiently given or served for purposes of this *Act*.

Residential Tenancy Policy Guideline 12 provides where a landlord is personally serving a tenant, the landlord must leave a copy with the tenant. This requires actually handing a copy of the document to the person being served. If the person declines to take a copy of the document, it may be left near the person so long as the person serving informs the person being served of the nature of the document being left near them. I concur with this policy as it relates to the matter before me.

Upon review of the written submissions of the Landlord I accept the Landlord informed the Tenant he was serving the Tenant and then left a package at the door. Notwithstanding the absence of evidence to suggest the Landlord told the Tenant what the exact contents of the package were, I find the Landlord has sufficiently served the Tenant with the Landlord's March 21, 2016 application for Dispute Resolution and Notice of Hearing Documents, pursuant to section 71(2)(c) of the *Act*, and Policy Guideline 12.

### Conclusion

The Landlord was successful with his application for Substitute Service and the Tenant has been found to be sufficiently served with the Landlord's March 21, 2016 application for Dispute Resolution and Notice of Hearing Documents

This decision is final, legally binding, and 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 21, 2016

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Residential Tenancy Branch