



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CENTURY 21 IN TOWN REALTY  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes:

MND, MNR, MNSD, FF

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent, a monetary Order for damage, to retain all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

### Issue(s) to be Decided

Is the Landlord entitled to a monetary Order for unpaid rent, lost revenue, or damage to the rental unit?

Is the Landlord entitled to keep all or part of the security deposit?

### Background and Evidence

The Agent for the Landlord stated that on January 28, 2016 the Application for Dispute Resolution and the Notice of Hearing were sent to both Tenants, via registered mail, at the service address noted on the Application. The Landlord submitted Canada Post documentation that corroborates this statement.

The Agent for the Landlord stated that the aforementioned package was returned to the Landlord by Canada Post. He stated that he has not communicated with the Tenants in regards to these proceedings.

The Agent for the Landlord stated that the Tenants did not provide a forwarding address at the end of the tenancy so the documents were sent to the male Tenant's business address, which was provided with the rental application.

### Analysis

The purpose of serving the Application for Dispute Resolution and the Notice of Hearing to tenants is to notify them that a dispute resolution proceeding has been initiated and to give them the opportunity to respond to the claims being made by the landlord. When a

landlord files an Application for Dispute Resolution in which the landlord has applied for a monetary Order, the landlord has the burden of proving that the tenants were served with the Application for Dispute Resolution in compliance with section 89(1) of the *Residential Tenancy Act (Act)*.

Section 89(1) of the *Act* stipulates, in part, that a landlord must serve a tenant with an Application for Dispute Resolution 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) by sending a copy by registered mail to a forwarding address provided by the tenant; or
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

The Landlord submitted no evidence to show that the Tenants were personally served with the Application for Dispute Resolution and the Notice of Hearing. I cannot, therefore, conclude that the documents were served pursuant to section 89(1)(a) of the *Act*.

The Landlord submitted no evidence to show that the Application for Dispute Resolution and the Notice of Hearing were mailed to the Tenants at their place of residence. I cannot therefore conclude that the documents were served pursuant to section 89(1)(c) of the *Act*.

The Landlord submitted no evidence to show that the Application for Dispute Resolution and the Notice of Hearing were mailed to the Tenants at a forwarding address they provided at the end of the tenancy. I do not find that a business address provided prior to the start of a tenancy serves as a forwarding address, as there is no indication that the Tenants agreed that this could be used as a forwarding address at the end of the tenancy. I cannot therefore conclude that the documents were served pursuant to section 89(1)(d) of the *Act*.

There is no evidence that the director authorized the Landlord to serve the Application for Dispute Resolution to the Tenants in an alternate manner and I therefore cannot conclude that the document was served in accordance with section 89(1)(e) of the *Act*.

The Landlord submitted no evidence to cause me to conclude that the Tenants received the Application for Dispute Resolution; therefore I cannot conclude that the Application has been sufficiently served pursuant to sections 71(2)(b) or 71(2)(c) of the *Act*.

As the Landlord has failed to establish that the Tenants have been served with the Application for Dispute Resolution and the Notice of Hearing, I am unable to proceed in the absence of the Tenants. The Application for Dispute Resolution is therefore dismissed, with leave to reapply.

Conclusion

The Application for Dispute Resolution 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: September 14, 2016

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Residential Tenancy Branch