



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** MNR, MND, MNDC

### **Introduction**

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for a monetary order for unpaid rent and for the cost of repairs to the rental unit.

The agent for the landlord stated that the notice of hearing was served on the tenant by registered mail, to the tenant's work place. The agent provided a tracking number. The agent also stated that since the tenant had not provided a forwarding address, the landlord hired a process server to serve the notice of hearing and evidence package on the tenant, in person at the tenant's residence.

The landlord did not provide any documentary evidence as proof of service. The tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

The landlord testified that the tenant moved out sometime before October 18, 2015 and informed the landlord of this move by email on October 18, 2015.

### **Issues to be decided**

Was the tenant properly served with the notice of hearing and the landlord's application? If so is the landlord entitled to a monetary order?

### **Analysis**

Section 89 (1) of the *Residential Tenancy Act* entitled "How to Give or Serve Documents".

**Section 89(1)** states

- 89** (1) 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 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;
  - (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*].

The purpose of serving a notice of hearing under the Legislation is to notify the person being served of matters relating to arbitration. The tenant is entitled to have an opportunity to be heard at the hearing. Based on the testimony of the landlord, I am not satisfied that the notice of hearing was served in accordance with section 88 of the *Act*.

**Conclusion**

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: September 09, 2016

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Residential Tenancy Branch