



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 0916295 BC LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes:

MNDC, MNR, MNSD, FF

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss, for a monetary Order for unpaid rent, to keep 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 compensation for damage to the rental unit, to compensation for unpaid rent, and to keep all or part of the security deposit?

### Background and Evidence

The Agent for the Landlord stated that on May 19, 2016 the Application for Dispute Resolution and the Notice of Hearing were sent to each Tenant named on the Application, via registered mail. She stated that the packages were returned to the sender by Canada Post.

The Agent for the Landlord stated that the aforementioned documents were mailed to the Tenants at an address provided to the Landlord shortly after the tenancy began on July 01, 2015. She stated that the Tenants did not provide a forwarding address after the tenancy ended and she does not know if they are still residing in the community.

### 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 tenant was 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 Notice of Hearing and I therefore find that they were not served in accordance with section 89(1)(a) of the *Act*.

The Landlord submitted no evidence to show that the Application for Dispute Resolution and Notice of Hearing were mailed to the Tenants' residential address and I therefore cannot conclude that they were served in accordance with section 89(1)(c) of the *Act*.

The evidence shows that the Landlord mailed the Application for Dispute Resolution and Notice of Hearing to a mailing address provided by the Tenants shortly after the tenancy began in July of 2015. As the Tenants did not give the Landlord any indication that this address would serve as their forwarding address after the tenancy ended and it is entirely possible that the Tenants have left the community and are no longer receiving mail at this address, I cannot conclude that they were served in accordance with 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, therefore I find that they were not 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. I therefore 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, I am unable to proceed with the hearing in the absence of the Tenants or a person representing the Tenants.

Conclusion

The Landlord has failed to establish that the Tenants have been served with the Application for Dispute Resolution and I therefore dismiss the 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: November 10, 2016

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Residential Tenancy Branch