



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNDC, FF

### Introduction and Preliminary Matter

This hearing convened as a result of the Landlord's Application for Dispute Resolution wherein the Landlord requested a Monetary Order for unpaid rent and for money owed or compensation for damage or loss under the *Residential Tenancy Act*, the *Residential Tenancy Regulation*, or the tenancy agreement and to recover the filing fee.

Only the Landlord appeared at the hearing. She gave affirmed testimony and was provided the opportunity to present her evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified she served the Tenants with the Notice of Hearing and her Application by registered mail. Evidence provided by the Landlord confirmed that one registered mail package was sent on May 5, 2016. The Landlord could not confirm the addressee of the package although she stated she believed she addressed the package to all three named Tenants. A review of the tracking number provided by the Landlord shows that a person, who is not named on the Application for Dispute Resolution, and not known to the Landlord, signed for this package.

On the Landlord's Application for Dispute Resolution she indicated that she received a letter from the Tenants on May 3<sup>rd</sup>, using an address in different community than the address to which she sent the registered mail package.

One of the principles of Natural Justice is that a party to a dispute is entitled to know the nature of the dispute and is to be given the opportunity to attend and respond to the allegations made against them. The purpose of serving documents under the Legislation is to allow the other party to prepare for the hearing and gather documents they may need to serve and submit as evidence in support of their position.

*Rule 3 of the Residential Tenancy Branch Rules of Procedure* provides that each respondent must be served within three days of the hearing package being made available to the applicant. When applying for monetary compensation, all parties named on an application for dispute resolution must receive notice of the proceedings and where more than one party is named on an application, each party must be served separately.

The *Residential Tenancy Act* designates ways in which documents are permitted to be served on a party to dispute resolution. Section 89 of the *Residential Tenancy Act* provides that an Application for Dispute Resolution must be served on a Tenant where that Tenant resides, or to the forwarding address the Tenant provides to the Landlord at the end of the tenancy. For greater clarity I reproduce that section as follows:

**Special rules for certain documents**

- 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*].

In the case before me, I am unable to find that the Landlord served the Tenants in accordance with section 89 of the *Residential Tenancy Act*, or as required by the *Rules of Procedure*. The Landlord testified that the address to which she sent the registered mail package was, to her knowledge, not where the Tenants were residing as required by section 89(1)(c) and was not the forwarding address provided by the Tenants as required by 89(1)(e). Further, the Landlord was not able to provide evidence as to whom the registered mail package was addressed.

Having failed to serve the Tenants as required, the Landlord's Application is dismissed with leave to reapply.

Conclusion

The Landlord failed to serve the Tenants as required by the *Act* and the *Rules of Procedure*. Her 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: November 07, 2016

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Residential Tenancy Branch