



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNDC, FF

### Introduction

This hearing was scheduled to deal with a landlord's application for a Monetary Order for compensation for damage to the rental unit. At the originally scheduled hearing a request for adjournment was made and granted with consent. An interim decision was issued to the parties along with a Notice of Hearing. At the reconvened hearing both parties appeared or were represented.

At the outset of the hearing, I explored service of hearing documents. The landlord stated he could not recall how he served the hearing package upon the tenant and indicated that he had served copies of his evidence to the tenant via email.

The tenant's agent testified that he received the hearing package and evidence from the landlord via email and nothing was sent to him by mail or registered mail. The tenant's agent stated that he did not consent to being deemed served.

In this case, it was apparent that the landlord has a service address for the tenant but did not use that address for serving the tenant. Rather, it was apparent to me that the landlord was unfamiliar with service provisions of the Act.

Section 89 of the Act determines the method of service for Applications for Dispute Resolution. The landlord has applied for a Monetary Order which requires that the landlord serve the tenant as set out under section 89(1). Section 89(1) requires the Application for Dispute Resolution and Notice of Hearing (the hearing package) be sent to the respondent by registered mail or given to the respondent in person, unless the applicant has received an Order from the Director to serve in another way. Email is not a permissible method of service and the landlord did not have an Order from the Director authorizing him to use email as a method of service.

As for serving evidence the applicant must use a method of service provided under section 88 of the Act. Email is not a permissible method of service.

Section 71 of the Act provides me the authority to deem a party sufficiently served even if they were not served in a manner that complies with the Act; however, given the tenant's objection to being deemed served, I declined to do that.

In light of the above, I dismissed the landlord's application with leave to reapply. The landlord is at liberty to file another Application and properly serve the tenant within the statutory time limit for doing so.

As further information for the parties, Residential Tenancy Branch Policy Guideline 12: *Service Provisions* provides information on service requirements. This policy guideline is located on the Residential Tenancy Branch website at: [www.gov.bc.ca/landlordtenant](http://www.gov.bc.ca/landlordtenant)

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 30, 2016

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Residential Tenancy Branch