



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **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 or utilities, 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 cleaning the rental unit, to compensation for unpaid utilities, and to keep all or part of the security deposit?

### Background and Evidence

The Landlord stated that the Tenant told him that he could serve her daughter with documents for the Tenant and that she provided him with the service address for the Tenant, which is recorded on the Application for Dispute Resolution. The Landlord stated that he presumed the service address was a residential address but when he went to that address he learned it was the daughter's place of employment.

The Landlord stated that on, or about, July 08, 2016 he personally served the Tenant's daughter with the Application for Dispute Resolution, the Notice of Hearing, and 5 pages of evidence the Landlord submitted with the Application, at the service address provided by the Tenant.

The Landlord provided details about this tenancy and about his claim however those details are not recorded here, for reasons outlined in my analysis.

### 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 Tenant was personally served with the Application for Dispute Resolution or Notice of Hearing and I therefore find that she was not served in accordance with section 89(1)(a) of the *Act*.

The Landlord submitted no evidence that the Application for Dispute Resolution was mailed to the Tenant and I cannot, therefore, conclude that she was served in accordance with section 89(1)(c) or 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 Tenant in an alternate manner and I cannot, therefore, conclude that she was served in accordance with section 89(1)(e) of the *Act*.

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

The hearing proceeded on January 05, 2017 on the basis of my incorrect conclusion that the Landlord could personally serve the Tenant's daughter with the Application for Dispute Resolution at the service address provided. Upon reflection I find that the Landlord only had the right to deliver those documents to that address by registered mail.

As the Landlord has not served the Application for Dispute Resolution in accordance with section 89(1)(a) of the *Act*, I am unable to consider the merits of the Application in the absence of the Tenant. I therefore dismiss the Application, 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 *Act*.

Dated: January 05, 2017

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Residential Tenancy Branch