



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND

### Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for damage to the rental unit, pursuant to section 67.

The tenant did not attend this hearing, which lasted approximately 18 minutes. The three landlords, one female and two males, attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

### Preliminary Issue – Service of the Landlords' Application

The female landlord testified that the tenant was served with a copy of the landlords' application for dispute resolution hearing package on July 22, 2016, by way of registered mail. The landlords provided a Canada Post receipt and tracking number with their application. The female landlord said that the application package was returned to the landlords because it was unclaimed by the tenant.

The female landlord stated that the tenant did not provide a forwarding address when she vacated the rental unit. She claimed that she sent the application to a business address where the tenant was operating her business. I notified the landlords that they could not serve the tenant at a business address unless it was provided as a forwarding address by the tenant or an Arbitrator provided a substituted service order prior to the hearing. The female landlord then changed her testimony to state that the address was a residential address, not a business address.

The female landlord maintained that she found the address on the tenant's business Facebook page and she provided a screen shot printout of a page containing a

business name, phone number and address. The tenant's name or other identifying information was not on this page. One of the male landlords said that I "should look up" the tenant's phone number in the Residential Tenancy Branch ("RTB") online database to cross-reference it with the tenant's past applications at the RTB to confirm that it was the same phone number and that would prove the tenant lived there. When I informed the landlords that it was not appropriate, nor within the scope of my role as an Arbitrator, to research information in an internal RTB database on their behalf, they became upset with my answer. I notified them that even if the phone number from the Facebook page matched the tenant's phone number from previous hearings, this did not prove that the tenant lived at the address on the Facebook page.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows (emphasis added):

*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].*

I find that the landlords failed to provide sufficient evidence that the tenant was served with the landlords' application at an address at which she was residing or a forwarding address provided by her, in accordance with section 89(1) of the *Act*. The tenant did not attend this hearing. The application package was returned to sender. The tenant did not provide a forwarding address to the landlords. The landlords did not provide sufficient documentary evidence of the tenant's residential address. The landlords provided a Facebook page of a business that did not identify the tenant's name anywhere on the page and it did not indicate that it was a residential address. Service of application documents to a tenant at a business address is not permitted under section 89 of the *Act*.

As the landlords failed to prove service in accordance with section 89(1) of the Act, I find that the tenant was not served with the landlords' application. At the hearing, I advised the landlords that I was dismissing their application with leave to reapply.

I notified the landlords that if they wished to pursue this matter further, they would have to file a new application and pay another filing fee. I cautioned them that they would have to prove service at the next hearing.

#### Preliminary Issue – Inappropriate Behaviour by the Landlords during the Hearing

Rule 6.10 of the RTB *Rules of Procedure* states the following:

##### *Interruptions and inappropriate behaviour at the dispute resolution hearing*

*Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.*

Throughout this hearing and particularly when giving my oral reasons, all three landlords became increasingly upset and repeatedly interrupted me. When I advised the landlords that they would have another opportunity to file their application, they continued arguing with me and making inappropriate comments, despite the fact that I told them my decision was final. The landlords then inquired as to the name of my supervisor at the RTB, so I provided them with the name of the RTB Director. The female landlord then stated that she had already talked to "him." I informed the female landlord that the Director was female, not male. I notified the landlords that they could obtain the Director's contact information from the RTB website.

I caution the landlords not to engage in the same rude, hostile and disruptive behaviour at any future hearings at the RTB, as this behaviour will not be tolerated and they may be excluded from future hearings. In that case, a decision will be made in the absence of the landlords.

#### Conclusion

The landlords' 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: January 19, 2017

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Residential Tenancy Branch