



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes:

MNDC, MNR, MND, MNSD, FF

### Introduction

This hearing was convened in response to the Landlords' Application for Dispute Resolution, in which the Landlords applied for a monetary Order for money owed or compensation for damage or loss, for a monetary Order for damage, to keep all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution. It is readily apparent from documents filed with the Application that the Landlords are also seeking a monetary Order for unpaid rent, and that matter will be considered at these proceedings.

### 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 female Landlord stated that sometime in September of 2016 her husband delivered the Application for Dispute Resolution and the Notice of Hearing to the Tenant's new home, where she believes he gave them to the Tenant's mother.

During the hearing the female Landlord contacted her husband to obtain additional details regarding service and he advised her that he cannot recall if they were served to the Tenant and, if they were served, he cannot recall how they were served.

### 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 accordance 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 Landlords 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 Landlords submitted no evidence that the Application for Dispute Resolution was mailed to the Tenant and I there find that she was not served in accordance with section 89(1)(c) or 89(1)(d) of the *Act*.

There is no evidence that the director authorized the Landlords to serve the Application for Dispute Resolution to the Tenant in an alternate manner and I therefore find that she was not served in accordance with section 89(1)(e) of the *Act*.

The Landlords submitted no evidence to show 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*.

### Conclusion

As the Landlords have failed to establish that the Tenant was served with the Application for Dispute Resolution in accordance with section 89(1) of the *Act*, I am unable to proceed with the hearing in the absence of the Tenant. The Application for Dispute Resolution is therefore dismissed, with leave to reapply. The Landlords retain the right to file another Application for Dispute Resolution in regards to these claims.

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: March 16, 2017

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Residential Tenancy Branch