



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNDC, MNSD, FF

### Introduction

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

- a monetary order for damage to the rental unit and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not participate in the conference call hearing, which lasted approximately 25 minutes. The landlord's agent (the "landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed she was an agent of the landlord's company named in this application, and had authority to speak on its behalf.

### Preliminary Issue – Service of Application

During the hearing the landlord testified that the tenant had vacated the rental unit sometime between September 30, 2016 and October 5, 2016.

The landlord testified that in the absence of a forwarding address provided by the tenant, on October 24, 2016 she forwarded the landlord's application for dispute resolution and supporting documents via registered mail to the address of the tenant's mother. This address was obtained from a "representation agreement" signed by the tenant's mother on March 5, 2016. The landlord testified that the registered mail was returned as "moved/unclaimed."

In November of 2016, the landlord submitted a partial application for substituted service to the Residential Tenancy Branch ("RTB"). The landlord testified that after speaking to

an information officer, she ultimately decided not to pursue the application for substituted service. No decision in relation to a substituted service application by the landlord has been rendered by the RTB.

Section 89 of the *Act* establishes that when a landlord serves an application for dispute resolution in relation to a monetary claim it must be served by leaving it directly with the tenant or by registered mail to a forwarding address provided by the tenant.

Based on the landlord's testimony that the application was sent by registered mail to an address obtained from a "representation form" dated March 5, 2016; not to a forwarding address provided by the tenant and in the absence of a pursued application for substituted service, I find that the landlord has not served the application to the tenant as required under section 89 of the *Act*.

### Conclusion

I dismiss the landlord's entire application with leave to re-apply.

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: April 24, 2017

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Residential Tenancy Branch