



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding FY Holding Companies Ltd  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes      MNSD, FF

### Introduction

This is an application brought by the tenant requesting a monetary order in the amount of \$568.00 and requesting recovery of his \$100.00 filing fee.

The applicant testified that the respondent was served with notice of the hearing by registered mail that was mailed on December 5, 2017; however the respondent did not join the conference call that was set up for the hearing.

### Decision and Reasons

Section 59(3) of the Residential Tenancy Act states:

59(3) Except for an application referred to in subsection (6), a person who makes an application for dispute resolution must give a copy of the application to the other party **within 3 days (my emphasis)** of making it, or within a different period specified by the director.

In this case the application was filed on November 22, 2016, and therefore the applicant was required to give, or at least mail, a copy of the application to the respondent by November 25, 2016, however the applicant testified that the notice of hearing was sent to the respondent by registered mail on December 5, 2017, and therefore it was mailed 10 days past the date on which it should have been mailed.

It is my decision therefore that I am not willing to allow this application, since the applicant did not comply with the service requirements of the Residential Tenancy Act.

Pursuant to section 62 of the Residential Tenancy Act this application is dismissed with leave to reapply.

Further, even if the applicant had served the documents as required by the Act, the applicant did not serve the landlord with a forwarding address in writing before applying for dispute resolution. The applicant testified that there was a return address on the envelope of the letter he sent to the landlord, however this would not be considered serving the landlord a forwarding address in writing, as the forwarding address was not on the letter that was provided at that time.

This application therefore would have been premature as the applicant is still required to serve the landlord with a proper forwarding address in writing before applying for dispute resolution.

### Conclusion

This application has been 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: May 24, 2017

---

Residential Tenancy Branch