



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, MND, MNR, MNSD, MNDC, FF

### Introduction

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

- an Order of Possession for cause pursuant to section 55;
- a monetary order for compensation for unpaid rent, damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the security deposit pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 20 minutes. The landlords attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord ED (the "landlord") primarily spoke for both landlords.

The landlord testified that she served the landlords' application for dispute resolution dated March 31, 2017 on or about that date by delivering it to an address where she believed the tenant was residing, and leaving a copy in the mail slot of that address. The landlord testified that she received a text message from the tenant acknowledging receipt of the landlords' application.

At the outset of the hearing the landlord testified that the tenant has vacated the rental unit and an Order of Possession is no longer being sought. The landlords withdrew the portion of their application seeking an Order of Possession.

Issue(s) to be Decided

Are the landlords entitled to monetary compensation for damages and loss as claimed?

Analysis-Service of Landlords' Application

Section 89(1) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution for a monetary award:

*89(1) An application for dispute resolution,...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 document]...*

The landlord testified that as the tenant had not provided a forwarding address, they delivered the landlords' application to an address where they believed the tenant was staying and, with the assistance of the manager of that building, left a copy of the application in the mail slot. This is not a manner of service accepted under the *Act*. The landlords have not served the tenant in a manner required by section 89(1) of the *Act*. I am not satisfied that the tenant was properly served with the application for dispute resolution.

Conclusion

I dismiss the landlords' application 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 10, 2017

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Residential Tenancy Branch