



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MT CNL OLC MNDC O

### Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* ("the Act") for: a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; 2 month notice as per section 50; an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both tenants attended this hearing and were given an opportunity to provide evidence and make submissions. The landlord did not attend the hearing. The tenants testified that they sent their Application for Dispute Resolution package ("ADR") by registered mail to the landlord. The tenants however had misplaced the receipt to show proof of service.

### Preliminary Issue: Service of Notice of Hearing to Respondent

The tenants testified that they had served the landlord with their ADR including the Notice of Hearing by registered mail. The tenants had not provided a receipt as evidence for this hearing. The tenants were asked about the details of service at this hearing. After being provided with some time at the hearing, the tenants were unable to provide the tracking information or other evidence of service of their ADR package to the landlord.

Proper service of documents is essential to the Residential Tenancy Dispute Resolution process to notify the respondent of the application and the hearing information related to the application. Service of documents is restricted by timelines and methods of service to underscore its importance. It is essential that a party be able to **prove** that they have sufficiently served the documents for a Residential Tenancy Dispute Resolution hearing.

Residential Tenancy Policy Guideline No. 12, in considering the terms of service at section 88 to 90 in the *Act* states that, when the respondent does not appear at a Dispute Resolution hearing, the applicants must be prepared to ***prove service under oath***. The tenants provided some testimony regarding service to the landlord however I find that the testimony lacked sufficient detail, including the dates of service and the confirmation of service to the landlord. While the tenants were provided opportunities to submit proof of service of their application to the landlord, they were unable to do so. Therefore, I find that the tenants did not provide sufficient evidence to prove that the landlord was served with the documents to provide notification of this hearing.

Prior to considering the details of the applicant's claim, I must be satisfied that the tenants/applicants sufficiently served the other party (the landlord), allowing that party an opportunity to know the case against them and attend the dispute resolution hearing. Based on the lack of detail and evidence submitted by the tenants to prove that the landlord was served with the Notice of Hearing, I find that the tenants have not sufficiently proven that the landlord was in fact served in accordance with the *Act* allowing the landlord to be aware of the details of the tenants' application at this dispute resolution hearing. Therefore, I dismiss the tenants' application with leave to reapply.

### Conclusion

I dismiss the tenants' 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: July 21, 2017

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Residential Tenancy Branch