



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

MNDC, RPP

### **Introduction**

This hearing was convened in response to an application by the tenant pursuant to the *Residential Tenancy Act* (the Act) for a monetary order and for the landlord to return the tenant's personal property.

Both parties attended the conference call hearing. The tenant claimed they sent the landlord their application and all evidence to support their claim by certified mail, however was not able to provide evidence to support it. The landlord testified they attended the conference call a they were sent a Notice of Hearing however did not receive anything else. As a result, despite the tenant's willingness to possibly mutually resolve the dispute the landlord did not want to settle any matters between the parties for lack of information. The tenant did not testify employing any other means to serve the landlord. Section 89 of the Act states as follows

### **Special rules for certain documents**

- 89 (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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 documents*].

Section 89 of the Act is deliberately designed to give credibility to the presumption of service if a party is served in accordance with the ways listed. I find the tenant's method of serving the landlord by *certified mail* is unsupported by evidence and the burden of proving service lies with the applicant. Therefore, on a balance of probabilities I am not satisfied the landlord was served with the application and evidence advanced to this proceeding pursuant to Section 89 of the Residential Tenancy Act.

Therefore, I **dismiss** the tenant's application, but I do so with leave to reapply. None of the potential merits of this application were heard.

### **Conclusion**

The tenant's application **is dismissed**, *with leave to reapply*.

**This Decision is final and binding.**

*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 31, 2017

---

Residential Tenancy Branch