



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HARVEST VIEW DEVELOPMENT CORP.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, MNSD, MNDC, FF

### Introduction

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

- 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 the security deposit for this tenancy pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, which lasted approximately 30 minutes. The corporate landlord was represented by its agent (the "landlord") who was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that he served the landlord's Application for Dispute Resolution dated March 20, 2017 by sending a copy by registered mail to an address shown on a land title certificate for property in Alberta owned by an individual with the same name as one of the tenants. The landlord provided a Canada Post tracking number as evidence of service. The landlord testified that the tracking system shows the application as having been delivered and signed by one of the tenants. The landlord confirmed that the address was discovered through searches and is not an address provided by the tenants.

### Issue(s) to be Decided

Is the landlord entitled to monetary compensation for damages and loss as claimed?

Is the landlord entitled to retain the security deposit for this tenancy?

Is the landlord entitled to recover the filing fee for this application?

### Analysis-Service of Landlord's 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 took measures to track the tenant and found a mailing address. The landlord testified that the Canada Post tracking system shows that mail delivered to this address was received by someone the landlord believes to be one of the co-tenants.

However, this is not a manner of service accepted under the *Act*. In the absence of an Order allowing substituted service I find that the landlord must serve the tenants in accordance with the *Act*.

I find that the landlord has not served the tenants in a manner required by section 89(1) of the *Act* therefore, I am not satisfied that the tenants were properly served with the application for dispute resolution.

Conclusion

I dismiss the landlord's 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: August 21, 2017

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Residential Tenancy Branch