



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNDC, OLC, FF

### Introduction

This hearing dealt with an application by the tenant filed April 15, 2017 under the *Residential Tenancy Act* (the “Act”) for return of the security deposit, compensation for breach of the Act, regulation, or tenancy agreement, an order the landlord comply with the Act, and recovery of the application filing fee.

The tenant attended the hearing and provided affirmed testimony and had the opportunity to present evidence orally and in written and documentary form and to make submissions to me.

As the landlord did not attend the hearing, service of the tenant’s application and notice of hearing was considered. The tenant could not remember whether he had sent these materials to the landlord by regular mail or by registered mail and did not have that information immediately available. The tenant testified that he sent his supporting evidence to the landlord by registered mail on September 12, 2017 and provided a tracking number in support.

The tenant also testified that he brought an earlier application for the same relief. His earlier application was dismissed because he had not provided any evidence in support of his claim.

I advised the tenant that I could not make a decision on his current application unless he had properly served the landlord, and asked him to send me proof of service. I heard the tenant’s claim in the event that I could decide it, but I cannot decide it, for the reasons set out below.

The tenant has since provided me with a copy of the envelope in which she sent the landlord his application. It is dated June 3, 2016 and indicates regular not registered mail.

Section 89 of the Act requires that this application (and this notice of hearing) be served in person or by registered mail. The tenant has provided me with proof that he sent an application to the landlord by regular mail. The date stamp on the envelope submitted by the tenant does not establish that the tenant served his April 15, 2017 application on the landlord by regular mail, because the date is June 3, 2016.

### Conclusion

The tenant's application is **dismissed with leave to reapply**, as the tenant has not established that the landlord has been served with the tenant's current application by registered mail.

This decision does not extend any applicable time limits under the Act.

The tenant may wish to speak with an information officer at the Residential Tenancy Branch for assistance in ensuring that any new application he brings is properly served and that the evidence in support of his application is also properly served.

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: September 20, 2017

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Residential Tenancy Branch