



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNR, MND, MNDC, FF

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (“*Act*”), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for:

- a monetary order for unpaid rent, for damage to the rental unit, and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* (“*Regulation*”) or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two tenants did not attend this hearing, which lasted approximately 26 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord confirmed that he was contacted by a representative from the Residential Tenancy Branch (“RTB”) on September 6, 2017, three times. He said that he spoke to the person and received messages. He stated that the hearing was originally scheduled for September 6, 2017 at 1:30 p.m. but was rescheduled to this current hearing date of September 7, 2017 at 1:00 p.m. and the representative provided him with the different access code in order to call into this hearing.

The representative from the RTB advised me prior to the hearing that he was unable to reach the tenant in order to notify him of this rescheduled hearing, as the landlord was unable to provide the tenant’s phone number. He also stated that the tenant did not call into the originally scheduled hearing at September 6, 2017 at 1:30 p.m.

### Preliminary Issue – Service of Landlord’s Application

The landlord testified that the tenants were each served with a copy of the landlord’s application for dispute resolution hearing package. He said that it was sent by registered mail and it was likely on April 10, 2017, when it was sent to the RTB. He did not have the receipts in front of him during the hearing in order to confirm the dates and

tracking numbers but supplied copies of the receipts with his application. He said that the mail was returned to sender.

When I questioned the landlord as to what address he sent the mail to, he said it was a forwarding address provided by the tenants in an email, dated February 20, 2017. The landlord confirmed that he did not supply this email to the RTB.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows (emphasis added):

*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 documents].*

Residential Tenancy Policy Guideline 12 states the following, in part (emphasis added):

*Registered mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a **named person** is available.*

*Proof of service by Registered Mail should include the original Canada Post Registered Mail **receipt containing the date of service, the address of service, and that the address of service was the person's residence at the time of service**, or the landlord's place of conducting business as a landlord at the time of service as well as a **copy of the printed tracking report**.*

The landlord was unable to confirm the exact dates of service with the tracking numbers. He was also unable to show that the address was a forwarding address provided by the tenants, by failing to supply the email. Accordingly, I find that the landlord failed to prove service in accordance with section 89(1) of the *Act* and the tenants were not served with the landlord's application.

At the hearing, I advised the landlord that I was dismissing his application with leave to reapply, except for the filing fee. I notified him that he would be required to file a new application and pay a new filing fee, if he wished to pursue this matter further. I cautioned him that he would have to prove service at the next hearing, including evidence of the tenant's forwarding address as well as specific evidence regarding registered mail dates and tracking numbers.

### Conclusion

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the landlord's application is dismissed 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: September 07, 2017

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Residential Tenancy Branch