



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDCL-S

### Introduction

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

- a Monetary Order for Damage or Compensation under the Act, pursuant to section 67; and
- authority to retain the tenant's security deposit, pursuant to section 38.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

### Service of Application

The landlord's agent (the "landlord") testified that he served the tenant the notice of dispute resolution package by regular mail on December 26, 2017. The tenant testified that she did not receive the dispute resolution package and only learned of this hearing when she received an email from the Residential Tenancy Branch reminding her of service deadlines.

### Analysis – Service of Application

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

*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]...*

I find that the landlord did not serve the tenant in a manner required by section 89(1) of the *Act*. At the hearing, I advised the landlord that I was dismissing his application with leave to reapply. I notified the landlord that if he wished to pursue this matter further, he would have to file a new application.

### Conclusion

I dismiss the landlord's application to recover the \$100.00 filing fee 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: June 18, 2018

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Residential Tenancy Branch