



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD

### Introduction

This hearing dealt with the tenants' application pursuant to the Residential Tenancy Act (the "Act") for return of the security deposit for this tenancy pursuant to section 38.

The landlord did not attend this hearing which lasted approximately 15 minutes. The tenant appeared and was given a full opportunity to give affirmed testimony, present evidence and call witnesses.

The tenant testified that they have not served the landlord with the application for dispute resolution. The tenant said that they were unaware that they were required to serve the respondent.

### Analysis

Section 89(1) of the *Act* establishes the following 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]...*

Residential Tenancy Policy Guideline 12 further provides that:

Where the respondent does not appear at a dispute resolution hearing, the applicant must be prepared to prove service of the notice of hearing package...

An application for dispute resolution must be served on the other party. The tenant stated that they have not given the landlord the application for dispute resolution. Therefore, I find that the application was not served on the landlord as required under the *Act*.

Accordingly, I dismiss the tenant's application with leave to reapply.

### Conclusion

The tenants' 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: July 12, 2018

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Residential Tenancy Branch