



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, FFT

### Introduction

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

- authorization to obtain a return of all or a portion of their security deposit pursuant to section 38; and
- authorization to recover the filing fee for this application pursuant to section 72.

The landlord did not attend this hearing, although I waited until 1:42 p.m. in order to enable the landlord to connect with this teleconference hearing scheduled for 1:30 p.m.

The tenants attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. Tenant T.M. (the tenant) indicated that she would be the primary speaker on behalf of the tenants in this matter.

The tenant testified that she served the Application for Dispute Resolution (the Application), including notice of this hearing (the Notice), by leaving it in the mailbox at the landlord's residence.

### Analysis

In this type of matter, the tenants must prove they served the landlord with the Application, with all the required inclusions as indicated on the Notice as per subsections 89 (1) of the *Act* which permit service by leaving a copy with the landlord or an agent of the landlord or "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."

I find that the tenants have served the Application to the landlord by leaving it in the mailbox at the landlord's residence, which is not a method of service permitted by section 89 (1) of the *Act*.

Since I find the tenants have not served the landlord with the Application in accordance with section 89 (1) of the *Act*, I dismiss the tenants' application to obtain a return of all or a portion of their security deposit, with leave to reapply.

I make no findings on the merits of the matter.

Leave to reapply is not an extension of any applicable limitation period.

For the same reason noted above, I dismiss the tenants' application to recover the filing fee paid for this application, without leave to reapply

### Conclusion

The tenants' application to obtain a return of all or a portion of their security deposit is dismissed, with leave to reapply.

The tenants' application to recover the filing fee paid for this application is dismissed, without 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 23, 2018

---

Residential Tenancy Branch