



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** FFL MNDCL-S MNDL-S

### **Introduction**

This hearing was reconvened from an adjourned hearing originally scheduled for June 5, 2018 to deal with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") for:

- a monetary order for damage to the unit, site, or property, money owed or compensation for loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

I had allowed the landlord's adjournment application as he was unable to serve the tenant SK with his application package, and required more time to serve SK.

The adjournment decision dated June 5, 2018 noted the requirements for service of the hearing package and evidence

Only one tenant, TT, attended this hearing, along with the landlord. The landlord indicated in the hearing that he was pursuing a monetary order from the tenant SK, and not TT.

### **Preliminary Issue - Service of Documents**

The landlord testified that the tenant SK had never provided him with a forwarding address. Alternatively, the landlord performed a 411 Search in order to verify the address he had obtained on his own after some investigation..

Section 89(1) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution for a Monetary Order.

*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;...*

It was undisputed that the tenant SK has not provided the landlord with his forwarding address. At the hearing, I advised the landlord of my finding that I am not satisfied that he has served the tenant SK in a manner required by section 89(1) of the *Act*. For this reason, I cannot consider the landlord's application for a Monetary Order.

As the landlord's application for a monetary Order has not been served to the tenant SK in a method required under section 89(1) of the *Act*, I dismiss the landlord's application for a monetary Order with leave to reapply.

The filing fee is a discretionary award issued by an Arbitrator usually after a hearing is held and the applicant is successful on the merits of the application. As I was not required to make a decision on the merits of this case, I find that the landlord is not entitled to recover the \$100.00 filing fee paid for this application. The landlord must bear the cost of this filing fee.

### **Conclusion**

I dismiss the landlord's application for a Monetary Order with leave to reapply.

The landlord's application to recover the filing fee 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 25, 2018