



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ReMax Check Realty  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDCT

### Introduction

This is an application pursuant to the *Residential Tenancy Act* (the *Act*) for the following:

- A monetary order for damages or compensation under section 67.

Both applicant tenants (“the tenant”) appeared at the hearing and provided affirmed testimony. The tenant was given the opportunity to make submissions as well as present oral and written evidence.

The landlord did not appear at the hearing. I kept the teleconference line open from the time the hearing was scheduled, for an additional ten minutes to allow the landlord the opportunity to call. I confirmed the correct participant code for the landlord had been provided.

The tenant was unable to establish the landlord had been served with the Notice of Hearing and the Application for Dispute Resolution. The tenant stated all efforts to personally serve the landlord had failed.

The way the landlord may be served is set out in Section 89 of the *Act* which states:

**89 (1)** An application for dispute resolution ... 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*].

The tenant submitted no evidence to support a finding the landlord had been served with the Notice of Hearing and Application for Dispute Resolution pursuant to Section 89.

Therefore, I find the tenant has failed to prove service as required and the application is dismissed with leave to reapply.

### Conclusion

As the tenant was unable to establish the landlord had been served with the Application for Dispute Resolution as required by Section 89 of the *Act*, the 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: October 5, 2018

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Residential Tenancy Branch