



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNRL MNDCL FFL

### Introduction

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

- a monetary order for unpaid rent, damages and loss pursuant to section 67;
- authorization to retain the security deposit for this tenancy pursuant to section 38; and
- authorization to recover the filing fee for the application from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 10 minutes. The landlord appeared and was given a full opportunity to be heard, to present their sworn testimony, to make submissions, and to call witnesses.

The landlord testified that they served the tenant with the application for dispute resolution and evidence on April 16, 2018 by registered mail. The landlord provided a Canada Post tracking number.

### Analysis-Service of Landlord's Application

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

*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]...*

The landlord testified that the tenant has not provided a forwarding address but they believe that the address they mailed the application package to be an address where the tenant resides. The landlord said that they believe the tenant resides at that address as they witnessed the tenants entering that building.

I find that there is insufficient evidence to conclude that the address the landlord sent the registered mail to, is an address where the tenant may be served. The landlord stated that the tenants have not provided a forwarding address in writing and their conclusion that the address is where the tenant resides is based on their observation. Under the circumstances I find there is insufficient evidence to conclude that the address the landlord issued the application to is an address provided by the tenant where they may be served in accordance with the *Act*.

I find that the landlords have not served the tenant in a manner required by section 89(1) of the *Act* therefore, I am not satisfied that the tenant was properly served with the application for dispute resolution.

### Conclusion

I dismiss the landlords' application 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 23, 2018

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Residential Tenancy Branch