



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNRL-S, MNDL-S, MNDCL, FFL

### Introduction

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

- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

Tenant LF and landlord RD attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Tenant SH and landlord AK did not participate in the conference call hearing, which lasted approximately 20 minutes. Tenant LF (the "tenant") testified that she was not authorized to speak on behalf of tenant SH. Landlord RD (the "landlord") testified that she had authority to speak on behalf of landlord AK.

### Preliminary Issue – Service of the Application

The landlord testified that on April 26, 2018 she forwarded the landlords' application for dispute resolution hearing package ("application") via registered mail to each tenant. The landlord provided Canada Post receipts and tracking numbers as proof of service. Tenant SH did not provide the landlord with a forwarding address; rather tenant LF provided two forwarding addresses to the landlord, one for herself and the other for tenant SH. The landlord used these respective addresses for service.

The Canada Post website shows that the documents sent to tenant SH were received but signed for by a party other than tenant SH. The documents sent to tenant LF were returned to the landlord on May 11, 2018.

The tenant testified that she did not receive the landlords' application. The tenant testified that although she provided a forwarding address to the landlord on March 3, 2018, she moved from that address on March 15, 2018. During the hearing, the tenant provided her new address, a PO Box.

Section 89 of the *Act* establishes that when a landlord serves an application for dispute resolution in relation to a monetary claim it must be served by leaving it directly with the tenant or by registered mail to where the tenant resides or to a forwarding address provided by the tenant.

Upon review of the Canada Post tracking numbers and the parties' testimony, I find the tenants were not served in accordance with section 89 of the *Act* and therefore dismiss the landlords' application with leave to reapply.

When a party cannot be served by any method permitted under the *Act*, a party may apply for a substituted service order to allow the application to be served in a different way. The party must complete an application for substituted service form. The party applying for a substituted order must be able to satisfy that the methods of service provided for under the *Act* cannot be used and there is a reasonable expectation that the party being served will receive the documents by the method requested.

### Conclusion

The landlords' 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 29, 2018

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Residential Tenancy Branch