



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MAN KEI ENTERPRISES  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNRT, MNDCT, MNSD, RPP

### Introduction

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

- a monetary order for the cost of emergency repairs to the rental unit and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67;
- authorization to obtain a return of the security deposit, pursuant to section 38;
- an order requiring the landlords to return the tenant's personal property, pursuant to section 65.

The two landlords did not attend this hearing, which lasted approximately 14 minutes. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

### Preliminary Issue – Service of Tenant's Application

The tenant testified that the landlords were served with the tenant's application for dispute resolution hearing package by way of registered mail. The tenant was unable to provide a date for service. He was unable to reference Canada Post receipts. He was unable to provide Canada Post tracking numbers during the hearing.

The tenant said that he did not have all of his evidence in front of him during the hearing and he submitted everything online to the Residential Tenancy Branch before the hearing. I provided the tenant with 14 minutes during the hearing to locate his evidence, while he was in a library with some paperwork and accessing a computer.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows (my emphasis added):

*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 documents].*

I find that the tenant was unable to provide a date or Canada Post tracking numbers to confirm service of his application to both landlords. The landlords did not appear at this hearing to confirm receipt of the tenant's application.

Accordingly, I find that the tenant failed to prove service in accordance with section 89(1) of the *Act* and the landlords were not served with the tenant's application.

At the hearing, I informed the tenant that I was dismissing his application with leave to reapply. I notified him that he would be required to file a new application and pay a new filing fee, if he wished to pursue this matter further. I cautioned him that he would have to prove service at the next hearing, including the date, method and Canada Post receipts and tracking numbers if sent by registered mail.

For the tenant's information, RTB Policy Guideline 12 states the following, in part (my emphasis added):

*Registered mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a **named person** is available.*

*Proof of service by Registered Mail should include the original Canada Post Registered Mail **receipt containing the date of service, the address of***

**service, and that the address of service was the person's residence at the time of service**, or the landlord's place of conducting business as a landlord at the time of service as well as a **copy of the printed tracking report**.

Conclusion

The tenant's entire 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 15, 2018

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Residential Tenancy Branch