



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Indica Translations Inc.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR MNSD FF

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. A participatory hearing was held on October 15, 2018. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for unpaid rent or utilities;
- permission to retain the security deposit to offset the rent he is owed; and,
- to recover the filing fee from the Tenant for the cost of this application.

The landlord attended the hearing and provided testimony. The tenants did not attend the hearing. Although the Landlord spoke to the merits of his application in the hearing, I find there are issues with his service of the application for review which are problematic for the proceedings today.

The Landlord stated that he sent a copy of the Application for Dispute Resolution along with supporting documentary evidence to each of the tenants by registered mail on March 23, 2018. The Landlord stated that he sent both packages (one for each tenant) to the Tenant, T.M., at her place of work. The Landlord stated that it appears as if someone with her initials signed for the packages. The Landlord provided a copy of an email he got from the Tenant, T.M., which has her work address in the signature block of her email. This email was from 2015, but the Landlord stated that he recently confirmed that she still works there when he did some checks.

I have considered the Landlords testimony and evidence on this matter. I note that serving an application package and a notice of hearing must be done in a certain manner, as set out in section 89 of the Act. Section 89 specifies the following:

### **Special rules for certain documents**

**89** (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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 there is insufficient evidence to show that the Tenants provided this particular address as their forwarding address. Further, given the address utilized by the Landlord for service is one of the Tenants' place of work (office), it is unlikely that the Tenants reside there. Ultimately, I find the Landlord has failed to serve the Tenants with his Notice of Hearing and application in accordance with section 89 of the Act.

I encourage the Landlord to utilize one of the approved methods of service, as laid out above. I note that serving documents in person can occur anywhere, but should this option be utilized, proof of service (witness or process server) may be required to prove service was affected appropriately. I find it important to note that registered mail may only be delivered in one of the manners laid out under section 89. Should the Landlord wish to serve the Tenants in an alternative manner to the options above, he should apply for an order for substituted service with the Residential Tenancy Branch.

Since the Landlord has failed to sufficiently serve his application, I dismiss his application, with leave to reapply.

### Conclusion

The Landlord's 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 16, 2018

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Residential Tenancy Branch