



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      MNDC, MNSD

### **Introduction**

This hearing dealt with an Application for Dispute Resolution by the tenant pursuant to the *Residential Tenancy Act*. The tenant applied for a monetary order for compensation and for the return of double the security deposit.

### **Preliminary and procedural matters**

Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord represented himself and the tenant was represented by her agent.

As both parties were in attendance I confirmed service of documents. The landlord stated that he had not received a notice of hearing and evidence package from the tenant. The landlord found out about the hearing when he received an email reminder from the Residential Tenancy Branch.

The tenant's agent testified that the tenant had delivered the package to the landlord's address in person and had filed a sworn affidavit as proof of service. The tenant's agent read the affidavit and I confirmed the landlord's address. The street address as recorded in the affidavit was correct but the tenant had failed to put the unit number on the package. The landlord testified that there are multiple units at this address and therefore this package was not delivered to him.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution, Notice of Hearing and the evidence that the applicant intends to rely on.

### 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;

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In this case, landlord was not served in a method permitted under section 89 of the Act as the documents were left at the street address of the landlord's residence but did not have a unit number for delivery to the landlord. Since there are multiple units at this address, I must accept the landlord's testimony that he did not receive the hearing package.

Based on the above, I find the landlord was not served by a method permitted under the Act. Therefore, I dismiss the tenant's 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: December 10, 2018

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Residential Tenancy Branch