



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes

MND MNSD FF / MNSD FF

### Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

#### Landlord:

- a monetary order for compensation for loss or damage pursuant to section 67;
- authorization to retain all or a portion of the tenant’s security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

#### Tenant:

- authorization to obtain a return of all or a portion of the security deposit pursuant to section 38;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. Both named parties attended the hearing.

### Preliminary Issue: Service of respective Applications

Both parties stated that they did not receive the other party’s application and/or evidence package.

The landlord testified that he served his application by sending a copy by registered mail.

The tenant testified that she sent her application by registered mail and uploaded a date stamped receipt as proof of service. The receipt submitted by the tenant did not include any tracking number or an address label confirming where the item was sent. The tenant could not provide a tracking number during the hearing.

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

*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 document]...*

I find the landlord did not serve his application by a permitted method of service as outlined above.

I find the tenant provided insufficient evidence that the landlord was served by registered mail in order for me to be able to make a finding that the landlord was deemed served under the *Act*.

### Conclusion

Both the landlord's and tenants' applications are dismissed with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

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 21, 2018

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Residential Tenancy Branch