



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR MND MNDC MNSD FF

### Introduction

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

- a monetary order for unpaid rent and compensation for loss and/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 her filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing.

### Preliminary Issue: Service of Landlord's Application

The landlord testified that she served the application for dispute resolution package by sending a copy by express post (with signature requirement) to each of the tenant's to their former address and to an address she obtained from one of their driving licenses. The tenants did not provide a forwarding address to the landlord. The landlord testified that a few weeks before the end of the tenancy, the tenants verbally had told her that they were moving back to their former home. The landlord testified that the tenant S.C. had acknowledged receiving the application package in a subsequent e-mail a copy of which was not submitted as evidence. The landlord was not able to provide any evidence that the tenant's had signed for and accepted the express post packages.

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 has provided insufficient evidence that the tenant has been served with the landlord's application for dispute resolution by registered mail to either an address at which the tenants reside or a forwarding address provided by the tenants or in person as required by section 89(1) of the *Act*. The tenants did not formally provide a forwarding address to the landlord and I have insufficient evidence to find that the tenants have moved back to their former address.

### Conclusion

I dismiss the landlord's application 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: January 18, 2019

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Residential Tenancy Branch