



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 1048359 BC LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNRL

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for a Monetary Order for unpaid rent, pursuant to sections 26 and 67.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

### Preliminary Issue- Service

The property manager (the "landlord") testified that the tenant was served the notice of dispute resolution package by registered mail on October 17, 2018. The landlord provided the Canada Post Tracking Number to confirm this registered mailing. The tenant testified that she did not receive the dispute resolution package and only learned of this hearing when she received a reminder email from the Residential Tenancy Branch. I asked the landlord what address the dispute resolution package was sent to. The tenant testified that the address stated by the landlord was an address she lived at prior to the tenancy in question.

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,...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 that the landlord did not serve the tenant in a manner required by section 89(1) of the *Act* because the tenant did not reside at the address the notice of application of dispute resolution package was sent to. At the hearing, I advised the landlord that I was dismissing her application with leave to reapply.

I notified the landlord that if she wished to pursue this matter further, she would have to file a new application. I cautioned her to be prepared to prove service at the next hearing, as per section 89 of the *Act*.

### 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: February 07, 2019

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Residential Tenancy Branch