



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDL MNRL FFL

### 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 damages pursuant to section 67 of the *Act*; and
- recovery of the filing fee from the tenant pursuant to section 72 of the *Act*.

Landlord's agent K.B. attended the hearing on behalf of the landlord, and is herein referred to as "the landlord". The tenant did not attend this hearing, although I left the teleconference hearing connection open until 1:41 p.m. in order to enable the tenant to call into this teleconference hearing scheduled for 1:30 p.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

As only the landlord attended the hearing, I asked the landlord to confirm that the tenant had been served with the Notice of Dispute Resolution Proceeding package, which includes the landlord's Application for Dispute Resolution, for this hearing.

The landlord testified that the tenant had vacated the rental unit without providing a forwarding address. The landlord further testified that she found a website which provided addresses for two businesses she alleged were owned by the tenant. The landlord sent the Notice of Dispute Resolution Proceeding package to both of these addresses by registered mail.

Section 89(1) of the *Act* outlines the methods of service for an Application for Dispute Resolution, which reads, in part, as follows (my emphasis added):

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 documents*].

Further to this, Residential Tenancy Branch Policy Guideline #12 provides direction regarding proof of service, as follows, in part (my emphasis added):

*Registered mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available.*

*Proof of service by Registered Mail should include the original Canada Post Registered Mail receipt containing the date of service, the address of service, **and that the address of service was the person's residence at the time of service**, or the landlord's place of conducting business as a landlord at the time of service as well as a copy of the printed tracking report.*

In this case, the landlord does not know the address where the tenant currently resides. The landlord was unable to submit any proof that the packages were delivered to and signed for by the tenant at either address. Further to this, the tenant did not attend the hearing. The landlord failed to submit any evidence to demonstrate that the address used by the landlord is a valid residential address for the tenant or that the tenant receives mail at that address.

Due to these circumstances, I find that the landlord was unable to show that the address where the landlord sent the Notice of Dispute Resolution Proceeding package was “the address at which the person resides” or “that the address of service was the person's residence at the time of service”. Therefore, I am unable to find that the

landlord's Application for Dispute Resolution for this hearing was served in accordance with section 89 of the *Act*.

As such, due to this issue with the service of documents, I dismiss the landlord's Application with leave to reapply, except for the filing which is dismissed without leave to reapply. For clarity, this means that the landlord will need to file a new application and pay a new filing fee if the landlord wishes to reapply.

The landlord may wish to contact the Residential Tenancy Branch and speak with an Information Officer if further information is needed regarding service of documents in situations where a tenant has failed to provide a forwarding address and the landlord does not have a residential address for the tenant.

### Conclusion

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of 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: March 19, 2019

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Residential Tenancy Branch