



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **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:

The landlords requested:

- a monetary order for monetary losses and money owed pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant requested:

- a monetary order for money owed pursuant to section 67;
- authorization to obtain a return of all or a portion of their security deposit pursuant to section 38; and
- authorization to recover the filing fee for this application from the landlords pursuant to section 72.

While the landlord MB attended the hearing by way of conference call, the tenant did not. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

At the beginning of the hearing the landlord testified that the tenant had legally changed his name. As the landlord did not have an issue, both applications were amended to indicate that the tenant GE was also known as JM.

Rule 7.3 of the Rules of Procedure provides as follows:

### **7.3 Consequences of not attending the hearing**

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

**In the absence of any submissions from the tenants in the hearing, I order the tenant's application dismissed without liberty to reapply.**

**Preliminary Issue - Service of the Landlords' Application for Dispute Resolution**

The landlord testified in the hearing that the tenant did not provide a forwarding address when the tenant had moved out. The landlord testified that he had obtained the tenant's address from the tenant's application, and had sent his application for dispute resolution by way of registered mail to that address. The landlord provided the tracking number for that package, which was sent on March 5, 2019. The package was returned to the landlords by the post office as it was unclaimed.

Section 89 of the *Act* establishes the following special rules for service of documents.

***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;*
- (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].*

As the tenant had never provided his forwarding address to the landlords and in the absence of sufficient proof of service to confirm that the tenant was served with the

landlords' application in accordance with section 89 of the *Act* as stated above, I dismiss the landlords' entire application with leave to reapply.

**Conclusion**

I dismiss the landlords' entire application for dispute resolution with leave to reapply.

The tenant's application is dismissed without 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: May 28, 2019

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Residential Tenancy Branch