



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FFT, MNDCT

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on December 14, 2018 (the “Application”). The Tenant sought compensation for monetary loss or other money owed and reimbursement for the filing fee.

The Tenant appeared at the hearing. Nobody appeared at the hearing for the Landlord.

The Tenant confirmed the correct spelling of the Landlord’s name and this is reflected in the style of cause.

I explained the hearing process to the Tenant who did not have questions when asked. The Tenant provided affirmed testimony.

The Tenant had submitted evidence prior to the hearing. The Landlord had not submitted evidence. I addressed service of the hearing package and Tenant’s evidence.

The Tenant testified that the hearing package was sent to the Landlord by registered mail on December 19, 2018. She said she sent the package to an address obtained from the Landlord’s Driver’s Licence. The Tenant testified that the Landlord let her take a photo of the Driver’s Licence and this is how she knows the address on the Driver’s Licence. She testified that the photo was taken February 05, 2017. She said the Driver’s Licence was issued October 10, 2014 and expires September 10, 2019.

I pointed out that the Landlord’s address on the written tenancy agreement provided is different from the address used. The Tenant said she is not sure what the Landlord’s address is and is not sure about the address on the written tenancy agreement.

The Tenant said the evidence submitted was not sent to the Landlord.

The Tenant submitted a photo of the envelope which was returned as unclaimed. It includes Tracking Number 1 as noted on the front page of this decision. I looked this up on the Canada Post website. The website shows two notice cards were left and then states, “Item cannot be delivered; more details to be provided” and “Item on hold at a secure facility; contact Customer Service”.

The Tenant submitted a written tenancy agreement between the parties in relation to the rental unit. This was signed February 05, 2017. The address for service for the Landlord is a different address than that used by the Tenant and obtained from the Landlord’s Driver’s Licence.

The Tenant submitted that when people change their address, they change it with ICBC right away. She said the Landlord would have updated her address with ICBC if she had changed her address. She confirmed that she does not know if the address used is the Landlord’s residence.

Section 89(1) of the *Residential Tenancy Act* (the “Act”) requires the hearing package for a monetary claim to be served as follows:

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;

...

(e) as ordered by the director under section 71 (1)...

[emphasis added]

I am not satisfied based on the evidence provided that the Landlord was served at her residence or place of business as required for the following reasons.

The Tenant used an address noted on the Landlord's Driver's Licence. The Landlord did not provide the Tenant with this address as the Landlord's address for service. The Driver's Licence was issued in October of 2014, more than four years prior to the Tenant sending the package to the address. It is not sufficient to submit that the Landlord would have updated her address with ICBC if it had changed. I cannot assume the Landlord would have done so. Nor can I assume the address on the Driver's Licence was the Landlord's residence without further evidence to support this. This is particularly so when the Landlord specifically provided the Tenant with a different address for service on the same day the Tenant took the photo of the Driver's Licence.

Further, the Canada Post notations raise questions about service and whether the package was simply unclaimed or if there was a further issue with delivering the package.

The Tenant acknowledged that she does not know if the address used is the Landlord's residence. I do not see a basis in the evidence for finding that the address is the Landlord's place of business.

The Landlord did not attend the hearing. The Landlord did not submit evidence for the hearing. There is no evidence before me that the Landlord received the package and in fact the evidence shows the Landlord did not receive it as it was returned to the Tenant.

In all the circumstances, I am not satisfied the Landlord was served with the hearing package in accordance with section 89(1) of the *Act*. I therefore dismiss the Application with leave to re-apply. This does not extend any time limits set out in the *Act*.

Conclusion

The Application is dismissed with leave to re-apply. This does not extend any time limits set out in the *Act*.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: May 01, 2019

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Residential Tenancy Branch