



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDL-S, FFL

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (“Act”), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for:

- a monetary order for damage to the rental unit, pursuant to section 67;
- authorization to retain the tenant’s security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 18 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

### Preliminary Issue – Service of the Landlord’s Application

The landlord testified that she served the tenant with a copy of her application for dispute resolution hearing package on January 16, 2019, by way of registered mail to a forwarding address provided by the tenant. The landlord provided the text message from the tenant on December 30, 2018, indicating a forwarding address.

The landlord provided a Canada Post tracking number verbally during the hearing. The tracking number did not match the tracking number on the receipt provided by the landlord with her application.

During the hearing, I looked up the Canada Post tracking number provided by the landlord on the Canada Post website, as the landlord did not provide a copy of the Canada Post receipt, tracking number or tracking report with this application. The tracking report indicated that the mail was “Delivered to mailroom” on January 17, 2019. When I asked the landlord if she sent the package to a mailroom rather than the

tenant's forwarding address, she said she sent it to the tenant's forwarding address. She said that the tenant received the evidence package as confirmed by the tenant's ex-wife but she did not testify at this hearing or provide a statement for the hearing.

Residential Tenancy Policy Guideline 12 states the following, in part (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**.*

I find that the landlord did not serve the tenant with her application in accordance with section 89(1) of the *Act*. Delivery to a mailroom is not sufficient, as it must be a named person, as indicated above by Residential Tenancy Policy Guideline 12.

I notified the landlord that her application was dismissed with leave to reapply, except for the filing fee. I informed her that she would be required to file a new application, pay another filing fee and provide proof of service at the next hearing, if she chooses to pursue this matter further.

### 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: May 03, 2019

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Residential Tenancy Branch