



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDL-S, MNDCL-S, FFL

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for damage to the rental unit, and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security and pet damage deposits in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 1:51 p.m. in order to enable the tenant to call into this teleconference hearing scheduled for 1:30 p.m. The landlord and their property manager attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord and I were the only ones who had called into this teleconference.

### Preliminary Issue - Service of Application for Dispute Resolution and Notice of Hearing

At the hearing, the landlord's property manager gave sworn testimony that they sent the tenant a copy of their application for dispute resolution and Notice of Hearing by registered mail to an address the tenant had provided them when the tenant vacated the rental unit. However, neither the landlord nor the landlord's property manager had

the Canada Post Tracking Number or Customer Receipt to confirm this registered mailing or knew the date this material was sent to the tenant.

Analysis - Service of Application for Dispute Resolution

Section 89(1) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution for a monetary award:

*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]...*

Section 15 of Residential Tenancy Guideline 12 on Service Provisions reads in part as follows:

*...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...*

As the landlord did not have the Canada Post Registered Mail receipt, Canada Post Tracking Number or the date this package was sent to the tenant to demonstrate service of the landlord's dispute resolution hearing package to the tenant, I find that the landlord has provided insufficient details to confirm that these packages were served to the tenant in accordance with section 89(1) of the *Act*. As I am not satisfied that the landlord has demonstrated that the tenant was properly served with copies of the landlord's application for dispute resolution, I dismiss this application with leave to reapply.

### Conclusion

I dismiss the landlord's application with leave to reapply. Leave to reapply does not extend any deadlines established pursuant to the *Act*.

In the event that the landlord submits a new application for dispute resolution, the landlord will need to provide all the information upon which the landlord intends to rely with their new application. It would be most helpful if this information were to include a fully completed and itemized list of the claim on the RTB's Monetary Order Worksheet, a copy of which can be found on the RTB's website, as well as copies of any joint move-in and move-out condition inspection reports that were completed for this tenancy. As the landlord also referenced matters that the landlord anticipates may lead to the laying of criminal charges against the Respondent, it would also be helpful to include an update on the status of any criminal charges that may have a bearing on the landlord's application for dispute resolution pursuant to 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 *Residential Tenancy Act*.

Dated: June 03, 2019

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Residential Tenancy Branch