



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      **FFT MNDCT MNSD**

### **Introduction**

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

- Authorization to recover the filing fees from the landlord pursuant to section 72;
- A monetary order for damages or compensation pursuant to section 67; and
- An order for the return of a security deposit or pet damage deposit pursuant to section 38.

The tenant AR attended the hearing, the landlord did not. The tenant testified she sent the landlord the Notice of Dispute Resolution Proceedings package by registered mail within 3 days of receiving it from the agent at Service BC. She could not recall the specific date she sent out the mailing, nor did she remember the tracking number for the mailing. The tenant did not retain the registered mail receipt from Canada Post.

The tenant advised that the landlord no longer lives at her original address and she doesn't know where the landlord now resides.

### **Preliminary Issue – service of the Notice of Dispute Resolution Proceedings package**

The application for dispute resolution must be served in accordance with section 89(1) of the *Act* (reproduced below).

### **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*].

Residential Tenancy Branch Rules of Procedure 3.5 indicates:

At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the *Act* and these Rules of Procedure.

Policy Guideline PG-12 [Service Provisions] provides that 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.

Given that the tenant was unable to remember when the Application for Dispute Resolution Package was sent or provide a Canada Post tracking number or Registered mail receipt, I am not satisfied the landlord has been served. Consequently, I dismiss the tenant's application with leave to reapply.

### Conclusion

The tenant's claim is dismissed with leave to reapply. Leave to reapply does not extend any deadlines established 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: September 19, 2019

---

Residential Tenancy Branch