



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, MNSD, RPP

### Introduction

This matter dealt with an application by the Tenant for compensation for loss of damage under the Act, regulations or tenancy agreement, to recover the security deposit and to have personal property returned.

The Tenant said she filed the application on September 12, 2019 and she submitted a Proof of Service document showing the Notice of Dispute Resolution was served to the Landlord by posting the documents in the Landlord's mail box on December 28, 2019. The Proof of Service document is dated December 28, 2019 and is signed by a witness. Further the Landlord gave affirmed testimony that he received the Notice of Hearing on December 28, 2019 from the Tenant.

Based on the evidence of the Tenant and the testimony of the Landlord, I find that the Landlord was not served with the Tenant's hearing package as required by s. 89 of the Act. Service of the Hearing package is to be within 3 days of filing an application and in this situation the Hearing package was service 107 days after filing. As the Landlord only received the Notice of Hearing 16 days before the hearing, I find the Landlord did not have time to prepare a defence or file a cross application. Consequently, I dismiss the Tenant's application due to incorrect service of the Application and Notice of Hearing (the "Hearing package").

Conclusion

The Tenant'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: January 14, 2020

---

Residential Tenancy Branch