



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MINDFUL MANAGEMENT  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD, FFT

### Introduction

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

- authorization to obtain a return of the tenants' security and pet damage deposits, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord did not attend this hearing, which lasted approximately 10 minutes. The two tenants, male tenant ("tenant") and "female tenant" attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant confirmed that he had permission to represent the female tenant at this hearing (collectively "tenants"). The female tenant did not testify at this hearing.

The tenant testified that the landlord was served with the tenants' application for dispute resolution hearing package on November 25, 2019, by way of registered mail. He provided a Canada Post receipt and confirmed the tracking number verbally during the hearing. He said that he looked up the address on the landlord company's website and in the landlord's emails to the tenants. The tenant claimed that the mail was returned to the tenants, indicating there was "no such address" and "customer address error found." He stated that the address was fake, and the postal code was incorrect.

The tenant claimed that he submitted a substituted service application to the Residential Tenancy Branch ("RTB") to serve the landlord by email, because the mailing address was fake. He said that he did not provide emails to support his application. He explained that he did not receive a substituted service order from an RTB Arbitrator approving service by email.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows (my emphasis added):

*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 documents].*

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

Accordingly, I find that the tenants did not serve the landlord with the tenants' application at a valid mailing address, as required by section 89 of the *Act* and Residential Tenancy Policy Guideline 12. The mail was returned to the tenants, indicating there was "no such address" and "customer address error found."

Further, the tenants did not properly complete or provide evidence as required by the substituted service application in order to serve the landlord with their application by email. The tenants did not provide a pattern of recent emails between the parties to show that the landlord would be notified of the tenants' application by email service. The tenants only provided one email, dated September 25, 2019, which is two months before they said they served their application for dispute resolution on November 25,

2019. Therefore, I could not make an order for substituted service of the tenants' application at this hearing. There was no other substituted service order issued by the RTB to the tenants for this application.

I notified the tenant that the tenants' application was dismissed with leave to reapply, except for the \$100.00 filing fee. I informed him that the tenants would be required to file a new application, if the tenants wish to pursue this application further. I informed him that if he was serving again by registered mail, the tenants would be required to provide proof of the validity of the landlord's address.

I notified the tenant that the tenants could make another substituted service application, pursuant to section 71 of the *Act*, if the application was filled out properly, completely and with the required evidence requested in the application. The tenant confirmed his understanding of same.

### Conclusion

The tenants' application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The tenants' application to obtain a return of the security and pet damage deposits 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: April 14, 2020

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Residential Tenancy Branch