



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Town Park Holdings Ltd  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      **FFL, MNRL-S, MNDL-S**

### **Introduction**

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

- Authorization to recover the filing fee for this application from the tenant pursuant to section 72;
- A monetary order for rent and/or utilities and authorization to retain a security deposit pursuant to sections 38 and 67; and
- A monetary Order for Damages and authorization to retain a security deposit pursuant to sections 38 and 67.

The tenant did not attend this hearing, although I left the teleconference connection open until 1:42 P.M. to enable the tenant to call into this hearing scheduled for 1:30 P.M. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord attended the hearing, represented by property manager, CL ("landlord"). The landlord testified that he served the tenant with the Notice of Dispute Resolution Proceedings and Application for Dispute Resolution by sending it to him via regular mail to the forwarding address provided to him in a letter dated December 4, 2019. The tenant's forwarding address is a Post Office Box, not a residential address.

The forwarding address letter was signed by the tenant and was printed on the letterhead of a friendship centre. An advocate of the friendship centre was CC'ed a copy of the forwarding address letter when it was written. The landlord testified that he personally served the advocate and emailed him with the Notice of Dispute Resolution Proceedings, however on December 12<sup>th</sup>, the advocate emailed the landlord back advising he is not authorized to accept service on behalf of the tenant.

An application for dispute resolution is a document that is governed by section 89 of the *Act*. (reproduced below).

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*].

Rule 3.5 of the Residential Tenancy Branch Rules of Procedure say the applicant must be prepared to the satisfaction of the arbitrator that the respondent was served with the Notice of Dispute Resolution Proceedings Package and all evidence as required by the *Act*.

In this case, the tenant was not personally served, nor was he served *by registered mail* to the address at which the tenant resides or to his forwarding address. At the time he was required to serve the application, the landlord did not have an order of the director under section 71 for alternate service. Given these facts, I find the landlord has not served the application for dispute resolution proceedings in accordance with 89. I dismiss the landlord's application with leave to reapply.

### Conclusion

The landlord's application is dismissed with leave to reapply. Leave to reapply does not extend any deadlines established pursuant to the *Residential Tenancy Act* or the *Limitation 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: May 07, 2020