



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

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

### Introduction

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

- A monetary order for damages or compensation and authorization to retain a security deposit pursuant to sections 38 and 67;
- A monetary Order for Damages and authorization to retain a security deposit pursuant to sections 38 and 67;
- Authorization to recover the filing fee for this application from the tenant pursuant to section 72; and
- A monetary order for rent and/or utilities 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 1:45 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 landlords were represented at the hearing by their agent, KC ("landlord"). The landlord testified that she served the tenant with the Notice of Dispute Resolution Proceedings and evidence by registered mail on December 13, 2019. The tracking number for the mailing is listed on the cover page of this decision.

The landlord testified that the tenant did not provide a forwarding address to them when she vacated the rental unit pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities that was served upon her. The tenant was being uncooperative in providing a forwarding address, causing the landlord to contact the tenant's father who was listed on the tenant's application for tenancy as being a previous residence. The landlord spoke with the father who '*didn't want to get involved in his daughter's business*'

however agreed that the landlord could send the Notice of Dispute Resolution Proceedings to his address. To date, the landlord has not been served with a forwarding address by the tenant.

### Preliminary Issue

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 named tenant was not personally served, nor was she served by registered mail to the address at which the landlord can confirm the tenant resides. The landlord has not served the Notice of Dispute Resolution Proceedings package in accordance with 89(1)(a) or (c). At the time it was served, the landlord did not have any order by the director to serve the notice by any other means. Given this, I am not satisfied the landlord has complied with section 89 of the *Act* and given the tenant proper notice of the dispute. 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 11, 2020

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Residential Tenancy Branch