



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Rimcher Investments Ltd dba Gwillim Gardens  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDCL-S, FFL

### Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on January 21, 2020 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage to the unit, site, or property; and
- an order to retain the security deposit; and
- an order granting recovery of the filing fee.

The hearing was scheduled for 1:30pm on June 11, 2020 as a teleconference hearing. Only the Landlord's Agent appeared and provided affirmed testimony. No one appeared for the Tenant. The conference call line remained open and was monitored for 23 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Landlord's Agent and I were the only persons who had called into this teleconference.

The Landlord testified the Application and documentary evidence package was served to the Tenant by registered mail on January 23, 2020. A copy of the Canada Post registered mail receipt was submitted in support. The Landlord's Agent stated that the registered mail was sent to the Tenant's previous address which he included in his tenancy Application. The Landlord's Agent stated that the Tenant had resided with his parents. The Landlord's Agent confirmed during the hearing that the Tenant did not provide the Landlord with his forwarding address and that the Landlord had not confirmation that the Tenant had returned to his previous residence that he occupied prior to the tenancy.

### Preliminary Matters

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

*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 document]...*

I accept that the Landlord was not provided with the Tenant's forwarding address and that the Landlord served the Application and documentary evidence to an address that the Tenant held prior to the commencement of the tenancy. I find that the Landlord has provided insufficient evidence to demonstrate that the Tenant was sufficiently served in accordance with Section 89 of the Act. As such, I dismiss the Landlord's Application with leave to reapply.

According to the Residential Tenancy Policy Guideline 14 (the "Policy Guidelines"); an application for substituted service may be made at the time of filing the application for dispute resolution or at a time after filing. The party applying for substituted service must be able to demonstrate two things:

- that the party to be served cannot be served by any of the methods permitted under the Legislation, and*
- that there is a reasonable expectation that the party being served will receive the documents by the method requested.*

### Conclusion

The Landlord did not serve the Application to the Tenant in accordance with Section 89 of the Act. The Landlord's Application is therefore 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: June 11, 2020

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Residential Tenancy Branch