



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDL-S, FFL

### Introduction

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

- a monetary order for damage to the rental unit, pursuant to section 67;
- authorization to retain the tenants' security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The four tenants did not attend this hearing, which lasted approximately 15 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the tenants were each served with the landlord's application for dispute resolution hearing package by way of registered mail on March 31, 2020. The landlord did not provide any Canada Post receipts or tracking reports with her application. She said that the mail was sent to a forwarding address provided by the tenants verbally, which she wrote down on a piece of paper. She did not provide this note for the hearing. She stated that the tenants confirmed service by email, but she did not provide a copy of this 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 landlord did not serve the tenants with the landlord's application, as required by section 89 of the Act and Residential Tenancy Policy Guideline 12.

The landlord was unable to provide sufficient documentary proof of a forwarding address given by the tenants, or when she obtained this address. She confirmed that the tenants did not provide a forwarding address at the move-out condition inspection. The landlord did not provide any Canada Post receipts or tracking reports with this application. The landlord did not provide a copy of the email that she said she had in her possession indicating that the tenants received the landlord's application. The tenants did not attend this hearing to confirm service.

I notified the landlord that her application was dismissed with leave to reapply, except for the \$100.00 filing fee. I informed her that she could file a new application and pay a new filing fee, if she wishes to pursue this matter further. I informed her that if she was serving again by registered mail, she would be required to provide documentary proof of the tenants' valid and current forwarding address, as well as proof of the registered mail as per Residential Tenancy Policy Guideline 12 above. The landlord confirmed her understanding of same.

Conclusion

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

The remainder of the landlord'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: August 04, 2020

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Residential Tenancy Branch