



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDCT

### Introduction

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

- a monetary order for compensation under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67.

The landlord did not attend this hearing, which lasted approximately 18 minutes. The tenant and his advocate 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 his advocate had permission to speak on his behalf.

The tenant's advocate testified that he served the landlord with the tenant's application for dispute resolution hearing package by way of Xpresspost mail on July 9, 2020. The tenant provided a Canada Post tracking number, the tracking report, and a photograph of the mail envelope with his application. The tenant's advocate claimed that the Canada Post office would not allow him to purchase registered mail, as certain locations do not allow it. He stated that he did not have the option to ask for a mail signature. He said that he called the landlord after he mailed the package and the landlord told him that he did not receive the application. The tenant's advocate explained that he then sent the tenant's application by regular mail to the landlord on September 17, 2020. The tenant stated that he had the landlord's mailing address on his tenancy application, but he did not provide it or any other documents demonstrating the landlord's address for this hearing. The tenant's advocate said that the landlord confirmed his mailing address verbally over the phone.

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 tenant did not serve the landlord with the tenant's application, as required by section 89 of the *Act* and Residential Tenancy Policy Guideline 12. The tenant did not attend this hearing to confirm service.

The tenant did not serve the application by registered mail. The tenant served the application by Xpresspost without a signature. This does not comply with the registered mail requirement under section 89 of the *Act* and Residential Tenancy Policy Guideline 12. The landlord did not sign for the package and it was "delivered to your community mailbox, parcel locker or apt./condo mailbox" as per the Canada Post tracking report provided by the tenant. The tenant did not provide documentary proof of the landlord's address. The tenant did not provide a copy of his tenancy application, which he had with him, or any other documentary evidence to demonstrate the landlord's address. The tenant's advocate was told by the landlord that he did not receive the tenant's

application and it was sent on September 17, 2020, by regular mail, which does not fulfil the registered mail requirement.

For the above reasons, I notified the tenant that his application was dismissed with leave to reapply. I informed him that he could file a new application and pay a new filing fee, if he wishes to pursue this matter further. The tenant and his advocate confirmed their understanding of same.

### Conclusion

The tenant'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: October 27, 2020

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Residential Tenancy Branch