



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDL, FFL

### Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for:

- a monetary order for loss under the Act, the regulation or tenancy agreement, pursuant to section 67; and
- an authorization to recover the filing fee for this application, under section 72.

I left the teleconference connection open until 1:51 P.M. to enable the tenant to call into this teleconference hearing scheduled for 1:30 P.M. The tenant did not attend the hearing. 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. 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.

I accept the landlord's testimony that the tenant was served with the application and evidence (the materials) by registered mail on September 21, 2020, in accordance with section 89(1)(d) of the Act (the tracking number is recorded on the cover of this decision).

The landlord stated the tenant moved out on July 02, 2020 and the materials were mailed to the rental unit's address, as the tenant did not provide the landlord with her forwarding address. The landlord said Canada Post redirected the package to the tenant's forwarding address on September 24, 2020 and delivered it on September 25, 2020.

Section 89 of the Act states:

(1)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].

Residential Tenancy Branch Policy Guideline 12 states:

The respondent's address may be found on the tenancy agreement, in a notice of forwarding address, in any change of address document or in an application for dispute resolution.

When a party cannot be served by any of the methods permitted under the Legislation, the Residential Tenancy Branch may order a substituted form of service.

[...]

**Where a landlord is serving a tenant by Registered Mail, the address for service must be where the tenant resides at the time of mailing, or the forwarding address provided by the tenant.**

[...]

**The decision whether to make an order that a document has been sufficiently served in accordance with the Legislation or that a document not served in accordance with the Legislation is sufficiently given or served for the purposes of the Legislation is a decision for the arbitrator to make on the basis of all the evidence before them.**

Based on the landlord's testimony, I find the landlord mailed the materials to the tenancy address almost three months after the tenant moved out. Furthermore, the information provided by Canada Post is not enough to confirm the tenant received the materials.

Thus, I find the tenant was not served in accordance with section 89(1) of the Act and dismiss the landlord's application for a monetary order with leave to reapply.

As the landlord was not successful in this application, I find that the landlord is not entitled to recover the filing fee paid for this application.

Conclusion

I dismiss the landlord's application for a monetary order with leave to reapply.

I dismiss the landlord's application to recover the filing fee without 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: January 06, 2021

---

Residential Tenancy Branch