



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDCT, RR, LRE, OLC

### Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution, made on February 15, 2021 (the "Application"). The Tenants applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order granting a rent reduction;
- a monetary order for damage or compensation;
- an order that the Landlord comply with the Act; and
- an order restricting the Landlord's right to enter the rental unit.

The Tenants and the Landlord attended the hearing at the appointed date and time. At the start of the hearing, the Tenants stated that they served their Application and documentary evidence package to the Landlord by attaching it to the Landlord's door on May 13, 2021. The Landlord stated that he found the package in his driveway five days before the hearing. The parties agreed that the tenancy has ended, however, the Landlord stated that he has not had sufficient time to review the Tenants' Application and was unable to respond to the Application, as the Tenants have not provided their forwarding address. I note that the Tenants provided the dispute address as their current address for service, despite the fact that the tenancy has ended. The Tenants stated that they are currently homeless.

### Analysis – Service of Tenants' Application

**According to the Rules of Procedure 3.1 Documents that must be served with the Notice of Dispute Resolution Proceeding Package;**

The applicant must, **within three days** of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute Resolution;
- b) the Respondent Instructions for Dispute Resolution;
- c) the dispute resolution process fact sheet (RTB-114) or direct request process fact sheet (RTB-130) provided by the Residential Tenancy Branch; and
- d) any other evidence submitted to the Residential Tenancy Branch directly or through a Service BC Office with the Application for Dispute Resolution, in accordance with Rule 2.5 [*Documents that must be submitted with an Application for Dispute Resolution*].

**According to the Rules of Procedure 3.5 Proof of service required at the dispute resolution hearing;**

At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution

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 Tenants submitted their Application for Dispute Resolution on February 15, 2021. I find that the Tenants were required to serve the Landlord with the Application three days later. As the Tenants stated they served the Landlord with the Application and documentary evidence package on May 13, 2021 by posting it to the Landlord's door, I find that the Tenants have not served the Landlord in accordance with

the Rules of Procedure. I further find that posting the Application to the Landlord's door is not an approved form of service pursuant to Section 89 of the *Act*.

I accept that the Landlord did not learn about the hearing until five days before the hearing and that he was unable to respond to the Tenant's Application given the the short turnaround time ad that the Tenants have not provided the Landlord with their forwarding address. As such, I dismiss the Tenants' Application with leave to reapply.

### Conclusion

The Tenants did not serve the Landlord with their Application for Dispute Resolution in accordance with the Rules of Procedure or the *Act*. As such, I dismiss their Application 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: May 20, 2021

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Residential Tenancy Branch