



# 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 Landlords' Application for Dispute Resolution, made on February 3, 2021 (the "Application"). The Landlords applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage or loss;
- 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 7, 2021 as a teleconference hearing. The Landlords' Agent W.N. attended the hearing at the appointed date and time. No one appeared for the Tenant. The conference call line remained open and was monitored for 13 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 W.N. and I were the only persons who had called into this teleconference.

W.N. testified the Application and documentary evidence package was served to the Tenant by registered mail. W.N. stated that the Tenant left a copy of her new tenancy agreement inside the rental unit before she moved out. W.N. stated that she retrieved the Tenant's forwarding address from this document. During the hearing, W.N. confirmed that the Tenant did not provide this address to the Landlords as being her "forwarding address". Rather, the Landlords assumed that this was the most appropriate address to use for service.

W.N. stated that the Registered Mailing was returned as unaccepted. W.N. stated that the Landlords made two attempts at serving the Tenant in person to the address they

retrieved from the Tenant's tenancy agreement she had left behind. M.H. stated that it did not appear as though the Tenant resided there as there were no tracks in the snow. W.N. stated that the Landlords spoke to the Tenant's new landlord who indicated that she had already evicted the Tenant.

### 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]...

According to the Residential Tenancy Branch Policy Guideline 12; 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.**

In this case, I find that the Tenant did not serve the Landlords with their forwarding address. I accept that the Landlords found the Tenant's new tenancy agreement which had her new address listed on it, however, this was not provided to the Landlords by the Tenant.

Furthermore, the Landlords attempted to serve the Tenant in person at the address listed on the new tenancy agreement. I note that the Landlords, in their Application, had indicated that the tenancy ended on October 30, 2020 and submitted their Application on February 3, 2021. I accept that the Landlords were unsuccessful in locating the Tenant as it appeared that the tenancy had already ended at the time of their attempted service. Based on this information, I find that the Landlords have provided insufficient

evidence to demonstrate that the Tenant resided at the address found by the Landlords at the time of the Registered mailing.

In light of the above, I find that the Landlords did not serve the Tenant with their Application and documentary evidence to the Tenant's forwarding address provided by the Tenant, nor did the Landlords serve the Tenant to where the Tenant resides at the time of the mailing, pursuant to Section 89 of the Act or Policy Guideline 12. As such, I dismiss the Landlords' Application with leave to reapply.

The Landlords are at liberty to apply for substituted service. According to the Policy Guideline 12(14) 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

I dismiss the Landlords' Application with leave to reapply. Leave to reapply does not extend any deadlines established pursuant to the *Act*.

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 07, 2021

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Residential Tenancy Branch