



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Mainline Living Property Management and  
[tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      MNRL-S, FFL

### **Introduction**

On March 31, 2021 the Landlord submitted an Application for Dispute Resolution (the “Application”), seeking relief pursuant to the *Residential Tenancy Act* (the “Act”) for the following:

- a monetary order for unpaid rent or utilities;
- an order granting authorization to retain the security deposit; and
- an order granting recovery of the filing fee.

The hearing was scheduled for 1:30PM (Pacific Time) on August 30, 2021 as a teleconference hearing. Only the Landlord’s Agent T.B. appeared at the hearing. No one called in for the Tenant. The conference call line remained open and was monitored for 10 minutes before the call ended.

The Landlord’s Agent stated that she served the Tenant the hearing package and documentary evidence by xpress post on April 1, 2021, however, she acknowledged that there was no tracking associated with this mailing. As such, the Landlord’s Agent stated that she sent another package to the Tenant by Canada Post Registered Mail, however, could not recall which date and could not provide the tracking number associated with the mailing.

### **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 Rules of procedure 3.5;

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 Proceeding Package and all evidence as required by the Act and these Rules of Procedure.

I find that the Landlord's Agent provided insufficient evidence to demonstrate that she served the hearing package to the Tenant in a manner required by section 89(1) of the *Act*. In light of the above, I dismiss the Landlord's Application WITH leave to reapply. Leave to reapply does not extend any statutory timelines.

### Conclusion

The Landlord provided insufficient evidence to demonstrate that they served the Tenant with the hearing package and documentary evidence in accordance with Section 89 of the *Act*. As such, I dismiss the Landlord's 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: August 30, 2021

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Residential Tenancy Branch