



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 1171589 B.C. Ltd and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR-PP, MNDCL-S, MNRL-S, FFL

This hearing was convened in response to an application made May 20, 2021 by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. A Monetary Order for compensation - Section 67;
4. An Order to retain the security deposit - Section 38;and
5. An Order to recover the filing fee for this application - Section 72.

The Tenant did not attend the hearing. The Landlord states that the Tenant was served with the application for dispute resolution, notice of hearing and evidence (the “Hearing Package”) by email on June 3, 2021. The Landlord sent the Hearing Package to the email address received in a Tenant’s text dated November 13, 2020. The Landlord does not have any written confirmation that the Tenant authorized the Landlord to serve documents by email to the Tenant. The Landlord has no evidence that the Tenant received the Hearing Package by way of email confirmation of receipt of the Hearing Package or by reply to the email of this service. The Landlord has no evidence of recent and routine use of email correspondence between the Parties at the email address used for service.

Section 89(2) of the Act provides that an application by a landlord under section 55 [*order of possession for the landlord*], 56 [*application for order ending tenancy early*] or 56.1 [*order of possession: tenancy frustrated*] must be given to the tenant in one of the following ways:

- (a) by leaving a copy with the tenant;
- (b) by sending a copy by registered mail to the address at which the tenant resides;
- (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
- (d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*];
- (f) by any other means of service provided for in the regulations.

Section 43(3) of the Regulations provides that for the purposes of section 89 (2) (f) of the Act, the documents described in section 89 (2) of the Act may be given to a tenant by emailing a copy to an email address provided as an address for service by the tenant.

An order of the director of the Residential Tenancy Branch (the "RTB"), made March 30, 2020, provides that until the declaration of the state of emergency made under the Emergency Program Act on March 18, 2020 is cancelled or expires without being extended:

- a document of the type described in section 88 or 89 of the Residential Tenancy Act or section 81 or 82 of the Manufactured Home Park Tenancy Act has been sufficiently given or served for the purposes of the applicable Act if the document is given or served on the person in one of the following ways:
  - the document is emailed to the email address of the person to whom the document is to be given or served, and that person confirms receipt of the document by way of return email in which case the document is deemed to have been received on the date the person confirms receipt;
  - the document is emailed to the email address of the person to whom the document is to be given or served, and that person responds to the email without identifying an issue with the transmission or viewing of the document, or with

their understanding of the document, in which case the document is deemed to have been received on the date the person responds; or

- the document is emailed to the email address that the person to whom the document is to be given or served has routinely used to correspond about tenancy matters from an email address that the person giving or serving the document has routinely used for such correspondence, in which case the document is deemed to have been received three days after it was emailed

I do not consider a text of an email address given November 2020 to be evidence of recent correspondence by email or of evidence of written authorization to use the email address for service of documents. As the Landlord does not have any authorization in writing from the Tenant for service of documents to that email address, does not have any confirmation from the Tenant of having received the hearing package at the email address and does not have any evidence of routine and recent email correspondence with the Tenant at the email address, I find that the Landlord has not substantiated that the Tenant was served with the Hearing Package as required or allowed under the Act, Regulations or Order. I therefore dismiss the application with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

This decision is made on authority delegated to me by the Director of the RTB under Section 9.1(1) of the Act.

Dated: September 23, 2021

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Residential Tenancy Branch