



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Ideal Holdings Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNRL-S, FFL

### Introduction

This hearing was scheduled to deal with a landlord's application for a Monetary Order for unpaid rent and authorization to retain the tenant's security deposit.

The landlord's agents appeared for the hearing; however, there was no appearance on part of the tenant.

Since the tenant did not appear, I proceeded to explore service of hearing materials upon the tenant.

The landlord's agents testified that they sent the proceeding materials to the tenant via email on May 10, 2021.

The landlord's agents testified that the tenant did not give the landlord an email address to use for purposes of serving her documents but they sent the hearing package via email because the tenant abandoned the rental unit in September 2020 and the tenant did not provide them with a forwarding address. The tenant's agents stated there was no response from the tenant to their email of May 10, 2021.

The landlord's agents acknowledged that they did not obtain a Substituted Service Order authorizing them to serve the tenant by email.

The landlord's agents stated the last time the tenant used the email address to communicate with them was in September 2020 whereby the tenant stated she was "homeless" in response to their request for a forwarding address.

Section 59 of the Act provides that an Application for Dispute Resolution must be served upon the other party within three days of making the Application for Dispute

Resolution. Section 89 provides for the ways an Application for Dispute Resolution and other required documents must be served upon the respondent. Where a respondent does not appear for the hearing, the applicant bears the burden to prove service occurred in a manner that complies with the Act.

Section 89(1)(f) permits service of an Application for Dispute Resolution for a monetary order by “any other means of service provided for in the regulations.”

Section 43 of the Regulations permits:

(2) For the purposes of section 89 (1) (f) [*special rules for certain documents*] of the Act, the documents described in section 89 (1) of the Act may be given to a person by emailing a copy to an email address provided as an address for service by the person.

[My emphasis underlined]

In keeping with section 89(1)(f) of the Act and section 43(2) of the Regulations, Residential Tenancy Branch Policy Guideline 12: *Service provisions* provides information pertaining to service by email on page 4, as follows:

**Email service**

- o To serve documents by email, the party being served must have provided an email address specifically for the purposes of being served documents. If there is any doubt about whether an email address has been given for the purposes of giving or serving documents, an alternate form of service should be used, or an order for substituted service obtained.

[My emphasis underlined]

In this case, I find I am unsatisfied that the tenant had given the landlords an email address specifically for the purposes of being served documents and the landlord had not obtained a Substituted Service order authorizing service by email. As such, I find I am unsatisfied that the service requirements of section 89(1) were met and I declined to hear this case further.

**The landlord's application is dismissed with leave to reapply.** It is important to note that this does not extend any applicable time limit under 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: October 28, 2021

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Residential Tenancy Branch