



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, MNETC, MNSD, FF

### Introduction, Preliminary and Procedural Matters-

This hearing dealt with the tenant's application for dispute resolution seeking remedy under the Residential Tenancy Act (the "Act"). The tenant applied for compensation for a monetary loss or other money owed, Compensation from the landlords related to a Two Month Notice to End Tenancy for Landlord's Use of Property (Notice), a return of their security deposit, and to recover the cost of the filing fee.

The tenant attended; the landlord did not attend the telephone conference call hearing.

In response to my inquiry, the tenant said he served the landlord with his Application for Dispute Resolution, evidence, and Notice of Hearing (application package) by email and WhatsApp.

When explaining to the tenant this was not a proper form of service under the Act, the tenant said that he served the landlord by registered mail to the rental unit address where the landlord goes a few times a week. However, the tenant did not supply a Canada Post tracking number to verify this mailing.

### Analysis and Conclusion

Section 89(1) of the Act indicates the ways in which an application for dispute resolution must be given, such as in the case of the tenant's claim for a monetary order:

- (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 documents*].
- (f) by any other means of service provided for in the regulations.

In the case before me I find that the tenant failed to provide sufficient evidence that he served his application by any of the ways required by the Act. There was no evidence submitted that the landlord provided an email address to which documents could be served.

I therefore find the tenant submitted insufficient evidence that he served the landlord her application for dispute resolution and notice of this hearing in a manner required by the Act.

Both parties have a right to a fair hearing and the landlord would not be aware of the hearing without having been served the Notice of a Dispute Resolution Hearing and application as required by the Act.

I therefore **dismiss** the tenant's application, **with leave to reapply**.

As I have not considered the merits of the tenant's application, I **dismiss** his request to recover the cost of the filing fee, **without leave to reapply**.

Leave to reapply does not extend any applicable time limitation deadlines.

The tenant is informed that he has from one year of the date the tenancy ended to provide his written forwarding address to the landlord, by any way recognized under section 88 of 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*. Pursuant to

section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: November 23, 2021

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Residential Tenancy Branch