



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, FF

### Introduction, Preliminary and Procedural Matters-

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (Act) for:

- compensation for damage to the rental unit by the tenant; and
- to recover the cost of the filing fee.

The landlord attended the hearing; however, the tenant did not attend.

The landlord stated she served the tenant with her application for dispute resolution and Notice of Hearing by email. The landlord confirmed that the email address used was one they hoped was being monitored. There was no evidence that the tenant provided an email address to be used as an address for service of documents and there was no response from the tenant acknowledging confirmation of receipt.

The landlord submitted that the tenant abandoned the rental unit without notice, and she had no other way to contact her.

### Analysis and Conclusion

Section 59(3) of the Act requires that a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it.

Section 89(1) of the Act requires that an application for dispute resolution 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 documents*];
- (f) by any other means of service provided for in the regulations.

I find the landlord submitted insufficient evidence that her application package was served to the tenant according to the requirements of section 89(1) of the Act and within three days of receiving the application package. I therefore dismiss the landlord's application, **with leave to reapply**, due to service issues as described above.

I make no findings on the merits of the matter. Liberty to reapply is not an extension of any applicable limitation period.

As I have not considered the merits of the landlord's application, I dismiss her request to recovery the filing fee, without 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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: January 25, 2022

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Residential Tenancy Branch