



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PCPM AS AGENTS FOR COUNTESS GARDENS  
INC. and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes:

MNDL-S, MNRL-S, MNDCL-S, FFL

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss, for a monetary Order for unpaid rent, for a monetary Order for damage to the rental unit; to keep all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

### Issue(s) to be Decided

Is the Landlord entitled to compensation for damage to the rental unit, to compensation for unpaid rent, and to keep all or part of the security deposit?

### Background and Evidence

Both Agents for the Landlord stated that the Tenant did not provide a forwarding address at the end of the tenancy and that during the final condition inspection the Tenant told them they could forward documents to him by email.

The female Agent for the Landlord stated that on September 23, 2021 she sent the Dispute Resolution Package to the Tenant's email address. She stated that she provided the Residential Tenancy Branch with a Proof of Service regarding this service method, however she did not submit any independent evidence, such as a screen shot of the documents emailed.

## Analysis

The purpose of serving the Dispute Resolution Package to tenants is to notify them that a dispute resolution proceeding has been initiated and to give them the opportunity to respond to the claims being made by the landlord. When a landlord files an Application for Dispute Resolution in which the landlord applies for a monetary Order, the landlord has the burden of proving that the tenant was served with the Application for Dispute Resolution in compliance with section 89(1) of the *Residential Tenancy Act* (Act).

Section 89(1) of the Act permits a party to serve an Application for Dispute Resolution to the other party in 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.

Section 43(2) of the *Residential Tenancy Regulation* stipulates that documents described in section 89 (1) of the Act may, for the purposes of section 89(1)(f) of the Act, be given to a person by emailing a copy to an email address provided as an address for service by the person.

Even if I accepted the testimony that the Tenant gave the Landlord verbal authority to serve documents to him by email, I would conclude that the Landlord has submitted insufficient evidence to establish that the Dispute Resolution Package was served to the Tenant by email. In reaching this conclusion I was heavily influenced by the absence of independent corroborating evidence, such as a screen shot of documents mailed. When such corroborating evidence is available, or could be available with reasonable diligence, I find the person bearing the burden of proving service has an obligation to provide those documents.

As the Landlord has submitted insufficient evidence to establish that the Dispute Resolution Package was served to the Tenant in accordance with the *Act*, I am unable to proceed with the hearing in the absence of the Tenant. The Application for Dispute Resolution is therefore dismissed, with leave to reapply.

### Conclusion

The Application for Dispute Resolution is dismissed, with leave to reapply. The Landlord retains the right to file another Application for Dispute Resolution for these same issues.

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

Dated: April 28, 2022

---

Residential Tenancy Branch