



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SKYLINE LIVING  
and [tenant name suppressed to protect privacy]

## **DECISION**

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

### Introduction

On March 8, 2022 the Landlord submitted an Application for Dispute Resolution (the “Application”), seeking relief pursuant to the *Residential Tenancy Act* (the “Act”) for the following:

- a monetary order for unpaid rent;
- a monetary order for damage, compensation, or loss;
- an order granting authorization to retain the security deposit;
- an order of possession for unpaid rent; and
- an order granting recovery of the filing fee.

The hearing was scheduled for 11:00AM on June 21, 2022 as a teleconference hearing. The Landlord’s Agent attended the hearing at the appointed date and time. No one appeared for the Tenant. The conference call line remained open and was monitored for 10 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Landlord’s Agent and I were the only persons who had called into this teleconference.

The Landlord’s Agent testified the Application and documentary evidence package was served to the Tenant by registered mail to the dispute address on March 16, 2022. The Landlord’s Agent stated that the package was later returned as unclaimed. The Landlord’s Agent stated that they attended the rental unit on March 19, 2022 to find that the Tenant had vacated the rental unit and did not provide a forwarding address.

Section 89(1) of the Act provides guidance for parties with regards to service of certain documents including an Application for Dispute Resolution and the Notice of Hearing. The Notice must be given in one of the following ways; by leaving a copy with the

Tenant (personal service); or, by sending a copy by registered mail **to the address at which the Tenant resides**.

According to Section 90 of the Act, documents served by Registered Mail are deemed to have been served 5 days later. In this case, the Tenant would have been deemed served with the Landlord's Application on March 21, 2022. As the Landlord's Agent confirmed that the Tenant had vacated the rental unit prior to March 19, 2022, I find that I am unable to determine that the Tenant was sufficiently served pursuant to the Act.

As result, this Application is dismissed with leave to reapply. This does not extend any time limits set out in the Act.

Should personal service not be achievable, an application for substituted service may be made at the time of filing the application for dispute resolution or at a time after filing.

In these cases, the party applying for substituted service must be able to demonstrate two things:

- that the party to be served cannot be served by any of the methods permitted under the Legislation, and
- that there is a reasonable expectation that the party being served will receive the documents by the method requested.

It shall also be noted that according to Section 39 of the Act; a landlord may retain the security deposit if a tenant does not give a landlord a forwarding address in writing within one year after the end of the tenancy, the landlord may keep the security deposit or the pet damage deposit, or both, and the right of the tenant to the return of the security deposit or pet damage deposit is extinguished.

### Conclusion

The Landlord did not serve the Tenant with the Application and documentary evidence package to the address at which the Tenant resides. As such, the Landlord's Application is dismissed with 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*.

Dated: June 21, 2022