



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## DECISION

Dispute Codes      MNETC, FFT

### Introduction

This hearing was set to deal with a tenant's application for monetary compensation payable where a landlord/purchaser does not use the rental unit for the purpose stated on a *Two Month Notice to End tenancy for Landlord's Use of Property* ("Two Month Notice"), as provided under section 51(2) of the Act.

The tenant appeared at the hearing; however, there was no appearance on part of the respondent.

Since the respondent did not appear, I explored service of the hearing materials upon the respondent.

In response to my questions regarding service upon the respondent, the tenant testified that he did not serve the respondent because he did not know he had to. However, on one occasion, the tenant testified that he may have sent the hearing documents to the respondent via email. I asked the tenant for the date the email was sent. The tenant indicated he would check his email and then he stated that he did not think he served the respondent.

I note that a registered mail receipt had been uploaded to this file. The registered mail receipt has "tenancy agreement" written in the space provided for the name and address of the recipient.

The tenant also stated that the only addresses he has for the respondent is the rental unit and the address that appears on the Two Month Notice.

Where a respondent does not appear at the hearing, it is upon the applicant to prove the respondent was served with the proceeding package and any evidence in a manner

that complies with the Act. The requirement to serve a respondent the proceeding package is in accordance with sections 59 and 89 of the Act; the Rules of Procedure; and, in keeping with the principles of natural justice.

Section 89(1) provides for the following permissible methods of service:

- (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

[My emphasis underlined]

Section 89(1) of the Act required the tenant to serve the landlord/purchaser either: in person, by registered mail, in accordance with a Substituted Service Order [s. 89(1)(e)] or by email to an email address the landlord provided for purposes of being served [s. 89(1)(f)].

The tenant did not have a Substituted Service Order in this case but there was a registered mail receipt provided.

Where an applicant serves by registered mail, it is upon the person serving the documents to show the address used for service is the respondent's address of residence or where they carry on business as a landlord, at the time of mailing.

Based on the inconsistency and lack evidence before me concerning service, I was unsatisfied the respondent was duly served with all of the hearing materials in a manner that complies with section 89(1) of the Act. Therefore, **I dismiss the application with leave to reapply.**

I encourage the tenant to speak with an Information Officer before re-applying so as to familiarize himself with the dispute resolution process.

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: March 14, 2023

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Residential Tenancy Branch