



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding NEWAY DEVELOPMENT LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      **MNDCT, MNSD, RPP**

### **Introduction**

This hearing was convened as a result of the Tenant's Application for Dispute Resolution (the "Application") under the *Residential Tenancy Act* (the "Act"), made on September 8, 2022. The Tenant applied for an order that the Landlord return the Tenant's personal property, a monetary order relating to compensation, and for the return of their security deposit.

The hearing was scheduled for 1:30PM on June 5, 2023 as a teleconference hearing. Only the Tenant attended the hearing at the appointed date and time. The conference call line remained open and was monitored for 10 minutes before the call ended during which no one called in for the Landlord.

The Tenant stated that they served the Notice of Hearing and documentary evidence to the Landlord by Canada Post Registered Mail. The Tenant stated that they could not recall when the documents were sent to the Landlord. The Tenant stated that they did not have the tracking information to confirm the service. The Tenant stated that the documents were returned to her as they were not claimed by the Landlord. The Tenant stated that they did not have the returned package which may have had the tracking information on it.

### **Preliminary Matters**

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

*89(1) An application for dispute resolution,...when required to be given to one party by another, 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 document]...*

According to the Rules of Procedure 3.1

Documents that must be served with the Notice of Dispute Resolution Proceeding Package The applicant must, within three days of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch or within a different period specified by the director, serve each respondent with copies of the following:

- a) the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute Resolution;
- b) the Respondent Instructions for Dispute Resolution;
- c) any fact sheets provided by the Residential Tenancy Branch; and d) any other evidence submitted to the Residential Tenancy Branch directly or through a Service BC Office with the Application for Dispute Resolution, in accordance with Rule 2.5 [Documents that must be submitted with an Application for Dispute Resolution].

3.5 Proof of service required at the dispute resolution hearing At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure.

The Tenant has not provided sufficient evidence to demonstrate that they served the Notice of Hearing and evidence to the Landlord in a manner required by section 89(1) of the Act. I am not satisfied that the Landlord was properly served with the Tenant's Application for dispute resolution, or documentary evidence. As such, I dismiss the Tenant's Application with leave to reapply.

Conclusion

The Tenant'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 05, 2023

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Residential Tenancy Branch