



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      MNRL-S, MNDCL-S, FFL

### Introduction

Under section 58 of the Residential Tenancy Act (the “Act”), this hearing dealt with the landlord’s September 13, 2022, application to the Residential Tenancy Branch for:

- (i) a monetary order for unpaid rent pursuant to section 26(1) of the Act;
- (ii) a monetary order for damage or compensation under section 67 of the Act;  
and
- (iii) authorization to recover the cost of the filing fee under section 72 of the Act.

### Preliminary Issue – landlord did not serve Notice of Dispute Resolution Proceeding Package on tenant

The tenant affirmed that:

- the tenant was never served with the Notice of Dispute Resolution Package by the landlord. Instead, the landlord served the Notice of Dispute Resolution Package on the tenant’s advocate (“**KD**”) at KD’s place of work.
- the tenant has not had a chance to look at the Notice of Dispute Resolution Package.

The landlord affirmed that:

- the landlord did not serve the tenant with the Notice of Dispute Resolution Package at the forwarding address provided by the tenant.
- when the landlord attempted to serve the tenant in person at the forwarding address provided by the tenant, the landlord found that the address was boarded up.
- the landlord decided to serve the Notice of Dispute Resolution Package on KD instead of the tenant as the landlord did not know how to find the tenant.

Under section 89 of the Act, a Notice of Dispute Resolution Package must be served on the respondent in the following ways:

- by leaving a copy with the person;
- if the person is a landlord, by leaving a copy with an agent of the landlord;
- 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;
- if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant; or
- as ordered by the director under section 71 (1) [director's orders: delivery and service of documents].

As the respondent is the tenant, the landlord had to serve the Notice of Dispute Resolution Package either (i) in person; (ii) by sending a copy by registered mail to a forwarding address provided by the tenant; or (iii) by sending a copy by registered mail to the address at which the tenant resides. As the landlord served the Notice of Dispute Resolution Package on KD at KD's place of work, I find that the landlord has not complied with section 89 of the Act. Based on this finding, I dismiss the landlord's application with leave to reapply.

### Conclusion

The application is dismissed with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

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 06, 2023

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Residential Tenancy Branch