



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding Heritage Trust Company Inc. and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDL-S, FFL

### Introduction

The Landlord filed an Application for Dispute Resolution on December 2, 2022, seeking compensation for damage in the rental unit, and other money owed, and the Application filing fee. The matter proceeded by way of a hearing pursuant to s. 74(2) on August 25, 2023. In the conference call hearing I explained the process and provided the attending party – the Landlord -- the opportunity to ask questions.

### Preliminary Issue – service of the Notice of Dispute Resolution Proceeding

The Landlord spoke to how they served the Notice of Dispute Resolution Proceeding for this matter to the Tenant. This was to a hotel where the Tenant was staying. The Landlord provided an image of the envelope they used for that purpose, then confirming with the hotel staff that they delivered the envelope as required. This was information the Landlord heard from a trust company that was handling rent payment for the Tenant during the tenancy.

The *Act* s. 59 contains the provisions for starting proceedings in a dispute resolution. Subsection (3) states: “. . . a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director.”

The *Act* s. 89 gives the rules for service of the application for dispute resolution. This is by leaving a copy with the person or their agent or sending a copy via registered mail.

Additionally, the Rules of Procedure that are crafted to ensure a fair process; these specify the documents to be served by the applicant (here, the Landlord) to the

respondent (here, the Tenant). These are: the Notice of Dispute Resolution Proceeding provided when applying; the Respondent Instructions for Dispute Resolution; a process fact sheet; and other evidence submitted by the applicant.

I find this does not constitute verified delivery with a confirmation thereof. I find there is sound verification where a hotel staff member would have received the material, not guaranteeing it ended up in the Tenant's hands.

I find the Landlord did not provide a copy of the Notice of Dispute Resolution Proceeding – that document that is generated when a person applies for dispute resolution – to the Tenant. The *Act* requires proper service in line with administrative fairness in which a party's legal rights and obligations are challenged. I dismiss the Landlord's Application for Dispute Resolution for this reason; however, the Landlord has leave to reapply on these issues, and any others that they feel apply to the current situation in this tenancy.

### Conclusion

I dismiss the Landlord's application for compensation, with leave to reapply. There is no reimbursement of the filing fee. This decision does not impact any deadlines as set forth in the *Act*.

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

Dated: August 27, 2023

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Residential Tenancy Branch