



Dispute Resolution Services

Residential Tenancy Branch

Office of Housing and Construction Standards

Ministry of Housing and Social Development

DECISION AND REASONS

This hearing dealt with an application for the return of double his security deposit plus interest. The landlord did not appear for the hearing.

I questioned the tenant about how the landlord was served with notice of this application and hearing. The tenant stated that it was sent by registered mail but did not provide any documentary evidence as proof of service.

Section 89 of the *Act* requires that service be conducted 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 documents*].

The purpose of serving documents under the Legislation is to notify the person being served of the claim being made against them and to provide that individual with the right to respond. Failure to serve documents properly may result in the application being adjourned, dismissed with leave to reapply, or dismissed without leave to reapply.

Proof of service by registered mail should include the original receipt given by the post office and should include the date of service, the address of service, and that the address of service was the person's residence at the time of service, or the landlord's place of conducting business as a landlord at the time of service.

The tenant has the burden of proving that the landlord was served. In the absence of any documentary evidence to support that the landlord was served by registered mail I find that I cannot deem that the landlord was served as required by section 89 of the *Act*.

As a result I dismiss the tenant's application with leave to re-apply.

Dated March 25, 2009.

Dispute Resolution Officer