



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: MNDC, MNSD, FF

### Introduction

This hearing was scheduled in response to an application by the tenants for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / compensation reflecting the double return of the security deposit / and recovery of the filing fee. While tenant “JM” attended and gave affirmed testimony, neither of the landlords appeared.

Further to the tenants’ application and the notice of hearing, there is no documentary evidence before me.

The tenants filed their application for dispute resolution on May 16, 2014. The tenant testified that she personally served the application for dispute resolution and notice of hearing (the “hearing package”) at the office out of which the landlords work on that same date, May 16, 2014. Specifically, the tenant testified that she handed the hearing package to an office support staff who acknowledged receipt of the package by affixing a date stamp. The landlords themselves were out of the office at the time. The tenant testified that the office support staff is not an employee of the landlords, or an agent representing the landlords in their role as landlords in this tenancy.

### Issue(s) to be Decided

Whether the hearing package has been served in accordance with the Act.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, forms and more can be accessed via the website: [www.gov.bc.ca/landlordtenant](http://www.gov.bc.ca/landlordtenant)

Section 88 of the Act speaks to **How to give or serve documents generally**. Section 89 speaks to **Special rules for certain documents**, and provides in part as follows:

89 (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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 documents*].

Further, section 71 of the Act addresses **Director's orders: delivery and service of documents** ("substituted service") and section 90 of the Act addresses **When documents are considered to have been received**.

Based on the affirmed / undisputed testimony of the tenant, I find that the method used for service of the hearing package does not comply with the above statutory provisions. Accordingly, the tenants' application must be dismissed with leave to reapply.

### Conclusion

The tenants' application is hereby 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: September 18, 2014

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Residential Tenancy Branch

