



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding IRONCLAD PROPERTIES INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes MNRL –S, MNDL –S, MNDCL – S, FFL

### Introduction

This hearing was set to deal with a landlord's application for a Monetary Order against the tenants for unpaid rent, damage, other damages or loss under the Act, regulations or tenancy agreement; and, authorization to retain the tenants' security deposit. The landlord's agent appeared at the hearing; however, there was no appearance on part of the tenants.

Since the tenants did not appear for the hearing, I proceeded to explore service of hearing documents upon the tenants.

The landlord has sent a registered mail package to each named tenant on September 21, 2018 and both of the registered mail packages were returned to sender with the notation that the recipient "moved" and "does not live here".

As for the address the landlord used to send the registered mail, the landlord's agent explained that on or about June 11, 2018 the female tenant was seen moving her belongings out of the rental unit and she told the landlord that her boyfriend, the co-tenant, had moved to another part of the province. According to the landlord's agent the tenant abandoned the rental unit on June 25, 2018 and the female tenant told the landlord's agent that she had moved to the house next door to the rental unit where her grandmother lives. The landlord's agent testified that she contacted the tenant's grandmother who said the landlord could mail documents to the tenant at that address.

The landlord filed its Application on September 4, 2018 but did not send the hearing packages until September 21, 2018. The landlord's agent then sent an email to the female tenant on September 26, 2018 to ask the tenant for a forwarding address. The tenant responded on September 29, 2018 via email saying she did not have an address at which she could receive mail.

Where a respondent does not appear at the hearing, the applicant bears the burden to prove the respondent was in accordance with the requirements of the Act.

Section 59 of the Act provides that an Application for Dispute Resolution must be served upon the respondent within three days of making the Application for Dispute Resolution. The hearing package was prepared on September 4, 2018 yet the landlord did not send it to the tenants until September 21, 2018 which is well past the three day deadline.

Aside from serving a hearing package with three days, section 89 provides for the ways an Application for Dispute Resolution and other required documents must be served upon the respondent. Registered mail is a permissible method of service under section 89; however, a landlord sending registered mail to a tenant must use the tenant's forwarding address that was provided by the tenant or the tenant's address of residence at the time of mailing.

There is no evidence to suggest the male tenant moved to the house next door to the rental unit or gave that address to the landlord as his forwarding address; therefore, I find the male tenant has not been served pursuant to section 59 or 89.

As for the female tenant, while she may have indicated to the landlord she was moving next door in June 2018 I find am not satisfied that address was still the tenant's forwarding address or address of residence when the hearing package was finally mailed nearly three months later on September 21, 2018. Therefore, I find the landlord failed to prove the female tenant was served in a manner that complies with section 59 and 89 of the Act.

In light of the above, I decline to hear the landlord's claims against the tenants and I dismiss the landlord's Application 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: January 04, 2019

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Residential Tenancy Branch