



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

MNRL, FFL

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for unpaid rent or utilities and to recover the fee for filing this Application for Dispute Resolution.

### Issue(s) to be Decided

Is the Landlord entitled to a monetary Order for unpaid rent?

### Background and Evidence

The Landlord stated that on December 27, 2019 the Dispute Resolution Package was sent to the Tenant, via registered mail, at a forwarding address provided to her by the Tenant.

The Landlord stated that she did not submit Canada Post documentation to corroborate her testimony that the aforementioned documents were mailed to the Tenant.

The Landlord stated that she is unable to locate the Canada Post receipt, so she is unable to provide a tracking number that corroborates her testimony.

### Analysis

The purpose of serving the Dispute Resolution Package to tenants is to notify them that a dispute resolution proceeding has been initiated and to give them the opportunity to respond to the claims being made by the landlord. When a landlord files an Application

for Dispute Resolution in which the landlord has applied for a monetary Order, the landlord has the burden of proving that the tenant was served with the Application for Dispute Resolution in compliance with section 89(1) of the *Residential Tenancy Act (Act)*.

Section 89(1) of the *Act* stipulates, in part, that a landlord must serve a tenant with an Application for Dispute Resolution in one of the following ways:

- (a) by leaving a copy with the person;
- (c) by sending a copy by registered mail to the address at which the person resides;
- (d) by sending a copy by registered mail to a forwarding address provided by the tenant;  
or
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

I find that the Landlord has submitted insufficient evidence to support her testimony that the Dispute Resolution Package was served to the Tenant by registered mail. In reaching this conclusion I was heavily influenced by the absence of documentary evidence from Canada Post and by the Landlord's inability to cite a tracking number, which may have served to corroborate her testimony. When such evidence is available, or should be available with reasonable diligence, I find that such evidence should be presented.

As the Landlord has submitted insufficient evidence to support her testimony that the Dispute Resolution Package was served to the Tenant by registered mail, I find that this hearing should not proceed in the absence of the Tenant.

The Application for Dispute Resolution is therefore dismissed, with leave to reapply.

### Conclusion

The Application for Dispute Resolution is dismissed, with leave to reapply. The Landlord retains the right to file another Application for Dispute Resolution seeking compensation for unpaid rent.

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

Dated: May 26, 2020