



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding GRAMERCY ENTERPRISES  
LTD. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDL-S, FFL

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for damage to the rental unit, pursuant to section 67;
- authorization to retain the tenant's security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 5 minutes. The landlord's agent ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that she was the manager for the landlord company named in this application and that she had permission to speak on its behalf at this hearing.

### Preliminary Issue – Service of Landlord's Application

The landlord stated that the tenant was served with the landlord's application for dispute resolution hearing package by way of registered mail. She said that she did not know the date or the tracking number for the mailing. She guessed that it might have been sent out on April 14, 2020, but she was unsure.

The notice of hearing for this application is dated for April 16, 2020.

Residential Tenancy Policy Guideline 12 states the following, in part (my emphasis added):

*Registered mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a **named person** is available.*

*Proof of service by Registered Mail should include the original Canada Post Registered Mail **receipt containing 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 as well as a **copy of the printed tracking report.***

Accordingly, I find that the tenant was not served with the landlord's application, as per section 89 of the Act. The landlord did not know the correct date of service, as she guessed a date prior to the notice of hearing being issued, or the tracking number for the registered mailing. The tenant did not appear at his hearing to confirm service.

I notified the landlord that the landlord's application was dismissed with leave to reapply, except for the filing fee. I notified her that the landlord could file a new application, pay another filing fee and provide proof of service at the next hearing, if the landlord chooses to pursue this matter further. The landlord confirmed her understanding of same.

### Conclusion

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the landlord's application is 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: August 20, 2020

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Residential Tenancy Branch