



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNETC

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on November 12, 2020 (the "Application"). The Tenant applied for compensation from the Landlord related to a Notice to End Tenancy for Landlord's Use of Property.

The Tenant appeared at the hearing. Nobody appeared at the hearing for the Landlord. I explained the hearing process to the Tenant. The Tenant provided affirmed testimony.

The Tenant submitted evidence prior to the hearing. The Landlord did not submit evidence. I addressed service of the hearing package and Tenant's evidence. The Tenant testified that the hearing package and evidence were sent by regular mail to the Landlord at the Landlord's address on the tenancy agreement. The Tenant testified that the package was sent two days after the hearing package was made available by the RTB. I confirmed with the Tenant that the package was sent by regular mail and not registered mail. The Tenant submitted a receipt for the mail. The receipt does not have a tracking number on it.

The hearing package had to be served in accordance with section 89(1) of the *Residential Tenancy Act* (the "Act") which states:

89 (1) An application for dispute resolution...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].

Section 89(1) of the *Act* does not permit service by regular mail. Therefore, I am not satisfied the Tenant served the hearing package on the Landlord in accordance with section 89(1) of the *Act*. Given this, the deeming provisions in section 90 of the *Act* do not apply and the Landlord is not deemed to have received the hearing package. The Landlord did not appear at the hearing to confirm service. The Landlord did not submit evidence for the hearing which may have satisfied me that the Landlord received the hearing package. There is no evidence before me showing that the Landlord received the hearing package.

Given the above, I am not satisfied the Landlord was served in accordance with the *Act* and therefore dismiss the Application with leave to re-apply. The Tenant can re-apply; however, the Tenant must serve the appropriate parties in accordance with the *Act*. This decision does not extend any time limits set out in the *Act*.

### Conclusion

I am not satisfied the Landlord was served in accordance with the *Act* and therefore dismiss the Application with leave to re-apply. The Tenant can re-apply; however, the Tenant must serve the appropriate parties in accordance with the *Act*. This decision does not extend any time limits set out in the *Act*.

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: March 02, 2021

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Residential Tenancy Branch