



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### **Dispute Codes**

Landlord: MND, MNSD, MNDC  
Tenants: MNSD, FF

### **Introduction**

This hearing was convened by way of conference call to deal with cross applications filed by the landlord and the tenants. The landlord has applied for a monetary order for damage to the unit, site or property; for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and for an order permitting the landlord to retain the security deposit in partial or full satisfaction of the claim. The tenants have applied for return of the security deposit and to recover the filing fee from the landlord for the cost of this application.

The landlord did not attend the conference call hearing. Therefore, the landlord's application is hereby dismissed without leave to reapply. I made no findings of fact or law with respect to the merits of the applications filed by either party.

The tenants testified that the Tenant's Application for Dispute Resolution was filed on August 19, 2010. A message was left on the first-named tenant's voice mail from the Access Centre stating that she had to pick up the notice of hearing documents to serve on the landlord and that the documents had to be served by August 26, 2010. The message also stated that if she did not pick up the documents by August 24, 2010 the application would not be processed. The tenant's phone was not working, she did not receive the message until after August 26, 2010 and therefore believed that the application was not processed by Residential Tenancy Branch. She further testified that she attended this hearing today only to defend against the landlord's application and did not know it was being dealt with as a cross-application.

**Analysis**

The *Residential Tenancy Act* states that a party who makes an application for dispute resolution must serve it on the opposing party within 3 days of making it. I accept the evidence of the tenants that they did not know their application was before me, and that they did not serve it on the landlord in accordance with the *Act*, and did not believe that the application had been processed.

**Conclusion**

The landlord's application is hereby dismissed without leave to reapply.

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: December 08, 2010.

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Dispute Resolution Officer