



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes

Landlord: MND, MNDC, FF and O  
Tenant: MNDC, MNSD, FF and O

### Introduction

The hearing was convened on applications by both the landlord and the tenant.

The landlords' application of January 7, 2013 sought a monetary award for damage to the rental unit, loss or damage under the legislation or rental agreement, other matters, and recovery of the filing fee for this proceeding.

The landlord's application responded to the tenant's application of November 8, 2012 seeking a monetary award for loss or damage under the legislation or rental agreement, return of his security deposit, recovery of his filing fee and other matters.

At the commencement of the hearing, legal counsel for the landlord requested that the tenant's application be dismissed as vexatious, both on its merits and taking into account that it was one month short of the two-year time limit from the end of tenancy set by section 60 of the *Act*.

The landlord's counsel also sought approval under section 71(2)(c) of the *Act* that service of documents on the tenant sent by email be deemed as sufficiently served as the tenant had moved and had not provided the landlord with a forwarding address, and had agreed to service by email.

Despite having made application and having been served the Notice of Hearing by the landlord, the tenant did not call in to the number provided to enable his participation in the telephone conference call proceeding.

Therefore, in the absence of the tenant as applicant with attendance and submission of substantial evidence by the landlord and his legal counsel as respondent, the tenant's application is dismissed without leave to reapply.

Consequently, I am relieved of the need to make a finding on whether the application was vexatious. However, I accept the evidence of the landlord's counsel that the tenant had not given a current forwarding address and had accepted service by email, and I find that the tenant was served sufficiently for the purposes of the *Act*.

On dismissal of the tenant's application, the landlord withdrew his application.

### Conclusion

The tenant's application is dismissed without leave to reapply and the landlord's application was withdrawn.

Both files on this matter have been closed and noted accordingly.

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: February 07, 2013

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Residential Tenancy Branch

