



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION ON REVIEW HEARING**

Dispute Codes      MNDC, OLC, ERP, RP, PSF, LRE

### Introduction

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

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make emergency repairs to the rental unit pursuant to section 33;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order to the landlord to provide services or facilities required by law pursuant to section 65; and
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70.

The tenant appeared. The landlord did not appear.

### Procedural History

This application was originally heard 13 October 2015. The tenant provided evidence that the landlord was personally served. The landlord did not attend that hearing. The original arbitrator awarded the tenant a monetary order in the amount of \$900.00.

On 23 October 2015, the landlord applied for review consideration on the basis that the decision was obtained by fraud. The landlord provided evidence that she was not in the city the date the tenant claimed to have served the landlord. On 27 October 2015, the landlord's application for review consideration was granted. The tenant was ordered to serve the landlord with the dispute resolution package. That decision suspended the 13

October 2015 decision and order until the outcome of the reconvened hearing. Both parties were sent notices of the reconvened hearing date.

On 4 January 2016, I was scheduled to hear the reconvened hearing. At that time, the tenant appeared to inform me, that on or about 10 November 2015, the tenancy ended abruptly when the rental unit was rendered uninhabitable as the result of a fire. The tenant informed me that as a result of this fire, he could not serve the landlord with the necessary documents. I adjourned the hearing and ordered the tenant to serve the landlord.

### Preliminary Issue – Service

The tenant testified that he served the landlord with the dispute resolution package on 1 February 2016 by registered mail. The tenant provided me with a Canada Post customer receipt that showed the same. The tracking number for the mailing is set out on the covering page to this decision. The tenant testified that the package was accepted on 3 February 2016. On the basis of this evidence, I am satisfied that the landlord was deemed served with the dispute resolution package pursuant to sections 89 and 90 of the Act.

### Issue(s) to be Decided

Should the original decision and order be confirmed, varied, or set aside?

### Analysis

Section 82 of the Act prescribes the various outcomes on a review consideration hearing:

- (1) Unless the director dismisses or refuses to consider an application for a review under section 81, the director must review the decision or order.
- (2) The director may conduct a review
  - (a) based solely on the record of the original dispute resolution proceeding and the written submissions of the parties, if any,
  - (b) by reconvening the original hearing, or
  - (c) by holding a new hearing.
- (3) Following the review, the director may confirm, vary or set aside the original decision or order.

Although duly served, the landlord did not appear and did not submit any evidence. On this basis, I confirm the original decision and order dated 13 October 2015 pursuant to subsection 82(3) of the Act.

Conclusion

The 13 October 2015 decision and order of the Residential Tenancy Branch in the matter of this tenancy is confirmed.

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

Dated: March 04, 2016

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Residential Tenancy Branch

