



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      DRI, CNC, CNR, MNR, OLC, ERP, RP, LRE, RR, FF

### Introduction

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

- an order regarding a disputed additional rent increase, pursuant to section 43;
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause ("1 Month Notice"), pursuant to section 47;
- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent ("10 Day Notice"), pursuant to section 46;
- a monetary order for the cost of emergency repairs to the rental unit, pursuant to section 33;
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 62;
- an order requiring the landlord to make emergency and regular repairs to the rental unit, pursuant to section 33;
- an order to suspend or set conditions on the landlord's right to enter the rental unit, pursuant to section 70;
- an order to allow the tenants to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord and the two tenants (male and female) attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. "Witness DM" testified on behalf of the landlord at this hearing. Both parties had equal opportunities to question the witness. This hearing lasted approximately 53 minutes.

The male tenant testified that he personally served the landlord with the tenants' application for dispute resolution, notice of hearing, and evidence package on December 8, 2017. The female tenant testified that she was not present during this service.

The landlord testified that she was personally served by the male tenant on December 8, 2017, and that witness DM was present. She said that she only received the one-page notice of hearing, indicating the date, time and access code to call into this hearing. She said that she did not receive any application for dispute resolution, nor did she receive any evidence package. She claimed that she did not know what this hearing was about or why the tenants filed an application against her.

Witness DM testified that she was present during the above service on December 8, 2017. She stated that she witnessed the male tenant serve a one-page notice of hearing document to the landlord, along with partial cash rent. She said that no application for dispute resolution or evidence package was served to the landlord. She claimed that the landlord tried to talk to the male tenant about the notice of hearing but he abruptly left.

Both the male tenant and female tenant questioned witness DM about whether any other documents were served to the landlord, aside from the notice of hearing, and witness DM said no. The female tenant asked whether witness DM was actually present during the service or was later told by the landlord about what happened. Witness DM claimed that she was present during the service and saw the male tenant serving the landlord.

At the hearing, I notified both parties that I found that the tenants failed to prove service of the required application for dispute resolution in accordance with section 89(1) of the *Act*. I also found that the tenants failed to serve their voluminous evidence package to the landlord in accordance with section 88 of the *Act*.

I found that the landlord and witness DM both confirmed that the landlord only received the one-page notice of hearing sheet. The tenants did not provide any other witness testimony indicating what documents the male tenant served to the landlord. The landlord was unaware of why the application had been filed against her and what evidence was served in support of it.

I asked the landlord whether she wanted to proceed with the hearing. She claimed that she did not because she had no notice of the tenant's claims against her. I asked

whether she wanted to address the urgent order of possession issues only, regarding the 10 Day Notice and 1 Month Notice, and she claimed that she did not because she was not prepared.

For the above reasons, I informed the tenants that I was dismissing their application with leave to reapply, except for the \$100.00 application filing fee. I notified them that they would be required to file a new application and pay a new filing fee if they wished to pursue this matter further against the landlord. The tenants confirmed that they wanted to refile their application and proceed on another future hearing date.

### Conclusion

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

The remainder of the tenants' 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: February 07, 2018

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Residential Tenancy Branch