



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

<u>Dispute Codes</u>	Landlord:	MND MNDC MNSD FF
	Tenant:	MNDC MNSD OLC RP O

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “*Act*”).

The Landlord’s Application is dated September 14, 2017. The Landlord applied for the following relief pursuant to the *Act*:

- a monetary order for damage to the unit, site, or property;
- a monetary order for money owed or compensation for damage or loss;
- an order allowing the Landlord to retain all or part of the security deposit or pet damage deposit; and
- an order granting recovery of the filing fee.

The Tenants’ Application is dated September 1, 2017 (the “Tenants’ Application”). The Tenants applied for the following relief pursuant to the *Act*:

- a monetary order for money owed or compensation for damage or loss;
- an order that the Landlord return all or part of the security deposit or pet damage deposit;
- an order that the Landlord comply with the *Act*, regulations, and or the tenancy agreement;
- an order that the Landlord make repairs to the unit, site, or property; and
- other unspecified relief.

The Tenants were represented at the hearing by the Tenant J.S., who provided affirmed testimony. The Landlord did not attend the hearing.

This matter was set for hearing by telephone conference call at 1:30 P.M. (Pacific Time) on March 14, 2018. The line remained open while the phone system was monitored for twelve minutes and the only participant who called into the hearing during this time was the Tenant J.S. Therefore, as the Landlord did not attend the hearing by 1:42 P.M., and the Tenant J.S. appeared and was ready to proceed, I dismiss the Landlord's claim without leave to reapply.

The Tenant J.S. testified the Tenants' Application was served on the Landlord by regular mail. However, section 89(1) of the *Act* states:

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].*

[Reproduced as written.]

The wording of the above provision is mandatory. Accordingly, I find the Tenants have not served the Landlord with the Tenants' Application package in accordance with section 89 of the *Act*. As a result, I find that 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: March 14, 2018

Residential Tenancy Branch