



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** FFL MNDCL-S

### **Introduction**

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

- and a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72

While the landlord's agent, TM, attended the hearing by way of conference call, the tenants did not. I waited until 2:10 p.m. to enable the tenant to participate in this scheduled hearing for 2:00 p.m. The landlord's agent was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

### **Preliminary Issue - Service of the Application for Dispute Resolution**

The landlord's agent testified during the hearing that he was unable to confirm that the tenant was served with the landlord's application in accordance with the *Act*.

Section 89(1) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution for a monetary Order.

*89(1) 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;...*

As there is no way to confirm that the tenant was served in a manner required by section 89(1) of the *Act*, I cannot consider the landlord's application for a Monetary Order. I am not satisfied that the tenant was properly served with any portion of the landlord's application for dispute resolution.

As the landlord's application has not been served to the tenant in a method required under section 89(1) of the *Act*, I dismiss the landlord's application with leave to reapply.

The filing fee is a discretionary award issued by an Arbitrator usually after a hearing is held and the applicant is successful on the merits of the application. As I was not required to make a decision on the merits of this case, I find that the landlord is not entitled to recover the \$100.00 filing fee paid for this application. The landlord must bear the cost of this filing fee.

### **Conclusion**

The application to recover the filing fee is dismissed without leave to reapply.

The landlord's application for monetary compensation 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: July 11, 2018

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Residential Tenancy Branch