



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes                      MNDCT, RPP, FFT

### Introduction

This is an Application for Dispute Resolution (the “Application”) brought by the Tenants requesting return of personal property and monetary compensation. The Tenants also request an order for payment of the filing fee.

The Tenants appeared for the scheduled hearing. The Landlord did not appear for the scheduled hearing; I confirmed that the proper teleconference numbers were provided in the Notice and that the Tenants and I were the only participants on the telephone call. I left the line open for 20 minutes past the scheduled hearing time, but the Landlord failed to call in to participate.

The Tenants state that they served the Notice of Hearing and documents on the Landlord by posting it on his door on December 23, 2017, and they provided a photograph as evidence.

### Issues to be Decided

Are the Tenants entitled to an Order for the return of personal property, pursuant to section 65 of the Residential Tenancy Act (“Act”)?

Are the Tenants entitled to a monetary order for compensation, pursuant to section 67 of the Act?

Are the Tenants entitled to payment of their filing fee of \$100.00, pursuant to section 72 of the Act?

### Background and Evidence

The Tenants agreed to pay \$1,100.00 per month for rent. The Tenants were served with a Two Month Notice to End Tenancy on July 21, 2017, with a stated effective date of September 15, 2017. The Tenants argue that the notice contained irregularities and was not completed properly by the Landlord. The reason for the end of the tenancy was listed as Landlord’s Use of the Property – *the unit will be occupied by the landlord or landlord’s close family members*. The Tenants state that the Landlord hired contractors to renovate the premises. The property was

listed for sale and advertisements dated December 16, 2017 were submitted which indicate that the house was available for viewing and purchase.

### Analysis

Rule 7.3 of the Residential Tenancy Branch Rules of Procedure states if a party or their agent fails to attend a hearing, the Arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the Application, with or without leave to re-apply.

Under section 89 of the Act, the Notice of Hearing has special requirements for service. It must be served one of three ways:

1. Personal service – it must be left with the landlord or an appointed agent of the landlord;
2. Registered mail – sent to the address where the landlord resides or where he carries on business as landlord; service is deemed effective on the date it is received or it may be deemed received 5 days after the date it was mailed; or
3. By special order of the Residential Tenancy Branch.

The Tenants state they served the Notice by posting it on the Landlord's door. I find that the Notice of Hearing was not properly served in accordance with section 89 of the Act, and I am not satisfied that the Landlord received proper notice of this hearing. Accordingly, I find that the Tenants' Application must be dismissed with leave to reapply. However, this does not extend any applicable time limits under the *Residential Tenancy Act* and I have made no findings of fact or law with respect to the merits of this Application.

### Conclusion

The Tenants' Application is hereby dismissed with leave to re-apply.

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 4, 2018

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Residential Tenancy Branch