



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      MNDCT MNSD

### **Introduction**

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

- a monetary order for compensation for loss or other money owed under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to obtain a return of all or a portion of their security deposit pursuant to section 38.

While the tenant AL attended the hearing by way of conference call, the landlords did not. I waited until 1:40 p.m. to enable the landlords to participate in this scheduled hearing for 1:30 p.m. The tenant was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Rule 7.3 of the Rules of Procedure provides as follows:

### **7.3 Consequences of not attending the hearing**

If a party or their agent fails to attend the 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

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

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;...*

Section 38 (1) of the *Act* states that within 15 days of the latter of receiving the tenant's forwarding address in writing, and the date the tenant moves out, the landlord must either return the tenant's security deposit, or make an application for dispute resolution against that deposit.

As nobody appeared for the respondents in this hearing, I am unable to ascertain whether the landlords were served in accordance with section 89(1) of the *Act*, or whether the landlords were provided with the tenants' forwarding address in writing as required by section 38 of the *Act*. Accordingly, I dismiss the tenants' application with leave to reapply.

### **Conclusion**

I dismiss the tenant's application for monetary compensation and for the return of their security deposit with leave to reapply. Liberty to reapply is not an extension of any applicable limitation period.

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: October 3, 2018

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Residential Tenancy Branch