



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **INTERIM DECISION**

Dispute Codes      MNDCL-S, MNDL-S, MNRL-S

### Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) and an Amendment to an Application for Dispute Resolution (the “Amendment”) that were filed by the Landlords under the *Residential Tenancy Act* (the “Act”), seeking monetary compensation for damage to the rental unit, unpaid rent, and damage or loss under the Act, regulation, or tenancy agreement, and authorization to withhold the Tenants’ security deposit.

The hearing was convened by telephone conference call and was attended by two agents for the Landlord (the “Agents”), and the Tenants, all of whom provided affirmed testimony. The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

At the request of the parties all, copies of this decision will e-mailed to them at the e-mail addresses provided by them in the hearing.

### Preliminary Matters

#### **Preliminary Matter #1**

During the hearing I accidentally disconnected the Agents from the conference call. Both the Tenants and I waited for the Agents to reconnect, during which time no matters relating to the hearing or the matters before me for consideration were discussed. The Agents reconnected shortly thereafter, at which time the hearing continued.

#### **Preliminary Matter #2**

The Tenant J.J. was continually disrespectful during the hearing, often shouting, using inappropriate language, refusing to listen to directions and interrupting both myself and the Agents. The Tenant was warned several times that if he could not control himself, speak respectfully, and follow directions, he would be muted. Despite my directions and the

patience and courtesy extended to him by myself and the Agents, the Tenants disruptive behavior continued. As a result, the Tenant was muted for a short period of time in order to collect and compose himself. When the Tenant was unmuted, he confirmed that he was able to hear the proceedings during that time and the hearing continued without further incident.

### **Preliminary Matter #3**

The Residential Tenancy Branch Rules of Procedure (the "Rules of Procedure") state that the respondents must be served with a copy of the Application, the Amendment, the Notice of Hearing, and all documentary or digital evidence to be relied on by the Landlord or their Agents in the hearing. While the Tenants ultimately agreed that they received the documentary evidence before me from the Landlord via e-mail on August 25, 2018, in accordance with the Order of Substituted Service received by the Landlord from the Residential Tenancy Branch (the "Branch") on February 23, 2018, they testified that the Application, the Amendment increasing the Landlord's monetary claim to \$7,770.23, and the proper Notice of Hearing were not received.

The Agents testified that a copy of the Order of Substituted Service was sent to the Tenants via e-mail on March 1, 2018, in accordance with the Order, along with a copy of the Application and the Notice of Hearing. In support of this testimony they provided copies of the e-mails with attachments showing that the above noted documents were sent as described above.

The Tenants denied having received the Application or the Notice of Hearing for September 14, 2018, at 1:30 PM, and stated that they only became aware of the hearing by way of an auto-generated reminder e-mail from the Branch. The Tenants stated that they called the Branch to obtain information about the hearing, and records at the Branch confirm that this call was made on September 11, 2018. Further to this the Tenants stated that the Notice of Hearing they received from the Landlords for this same file number states that the hearing is set for September 25, 2018. As a result, the Tenants stated that they were not prepared for the hearing today nor have they had an opportunity to submit evidence in their defense for consideration in this hearing.

The ability to know the case against you and to provide evidence in your defense is fundamental to the dispute resolution process. As a result of the above noted concern regarding administrative fairness and the time constraints of the hearing, I found it necessary to adjourn the matter.

### Conclusion

Based on the above, I ordered that the hearing be adjourned and reconvened. I also issued the following verbal orders to the Tenants and the Agents and confirmed their understanding of these orders prior to adjourning the hearing.

- **I order** that this hearing will be adjourned and reconvened on the date identified in the Notice of Hearing documents attached to this decision.
- **I order** that this is not an opportunity for the Landlords or their Agents to submit additional evidence for consideration.
- **I order** the Tenants to submit the following documents, which must be received by Branch and the Landlords not less than 7 days before the date of the reconvened hearing:
  - a copy of the Notice of Hearing they testified they received showing the date of the hearing for this matter as September 25, 2018;
  - Copies of all documentary and digital evidence they wish to rely on in this matter, the acceptance of which will be determined in the reconvened hearing.
- **I order** that this is not an opportunity for either party to submit a new Application to be crossed with this Application.
- **I order** that this is not an opportunity for the Applicants to amend their Application.

In the hearing I advised the parties that the Notice of Hearing will be sent directly to each party, along with a copy of this Interim Decision, at the e-mail addresses provided by them in the hearing, as per their request. I advised the parties to contact the Branch if they have not received notice of the new hearing date within two weeks.

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: September 18, 2018

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Residential Tenancy Branch