



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNRL-S, MNDCL-S, FFL; CNR, ERP, RP

### Introduction

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

- an order of possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67;
- authorization to retain the tenants' security deposit, pursuant to section 38; and
- authorization to recover the filing fee for their application, pursuant to section 72.

This hearing also dealt with the tenants' cross-application pursuant to the *Act* for:

- cancellation of the landlords' 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("10 Day Notice"), pursuant to section 46; and
- an order requiring the landlord to complete emergency and regular repairs to the rental unit, pursuant to section 33.

The two tenants did not attend this hearing, which lasted approximately 20 minutes. The two landlords (male and female) attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The female landlord confirmed receipt of the tenants' application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that both landlords were duly served with the tenants' application.

The female landlord testified that the tenants were served with one copy of the landlords' application for dispute resolution hearing package by way of registered mail. She stated that she did not know she had to serve two copies of the application to the tenants, as she thought one copy was sufficient if they lived together.

The female landlord testified that the landlords' application was served on July 13, 2018. When I told the female landlord that her application was filed on July 16, 2018, she changed her evidence it say it was served on July 19, 2018. The landlords provided a copy of an envelope which indicated that the mail was sent on July 18, 2018 with the same tracking number provided by the female landlord verbally during the hearing. When I checked the Canada Post tracking number provided by the female landlord it indicated that the item was accepted at the post office on July 19, 2018 but no delivery attempt was made to the tenants.

Based on the confusing testimony, different service dates, incomplete tracking information and attempt to serve only one rather than two packages, I notified both landlords that I could not consider their application and it was dismissed with leave to reapply, except for the filing fee. I notified them that they would have to file a new application, pay a new filing fee, and provide evidence regarding service if they wished to pursue this matter further. The female landlord claimed that she did not have a forwarding address for the tenants so she was unsure how to serve them.

#### Preliminary Issue – Dismissal of Tenants' Application

Rule 7.3 of the Residential Tenancy Branch ("RTB") *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.*

In the absence of any evidence or submissions from the tenants, I order the tenants' application dismissed without leave to reapply.

Pursuant to section 55 of the *Act*, if I dismiss the tenants' application to cancel a 10 Day Notice, the landlords are entitled to an order of possession if the notice meets the requirements of section 52 of the *Act*.

The female landlord confirmed that she did not require an order of possession because the tenants had vacated the rental unit. Accordingly, this portion of the landlords' application is dismissed without leave to reapply.

Conclusion

The tenants' entire application is dismissed without leave to reapply.

The landlords' application for an order of possession and to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the landlords' 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: September 07, 2018

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Residential Tenancy Branch