



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** MNRL FFL

### **Introduction**

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

- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72

While the landlord's agent, WB, attended the hearing by way of conference call, the tenant did not. 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 Landlord's Application for Dispute Resolution**

The landlord's agent testified during the hearing that the landlord was not provided with a forwarding address by the tenant when the tenant moved out.

Section 89 of the *Act* establishes the following special rules for service of documents.

### ***Special rules for certain documents***

**89** (1) *An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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;*

*(e) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents].*

As the tenant was not served with the landlord's application in a manner required by section 89 (1) of the *Act*, the landlord's application is dismissed 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.

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### **Conclusion**

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

The landlord's application for a monetary order for unpaid rent 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 11, 2018

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Residential Tenancy Branch