



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNDC, FF

This hearing was convened in response to an application made March 11, 2019 by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent - Section 67;
2. A Monetary Order for compensation - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

Both Parties appeared and were given opportunity to provide evidence under oath. The Landlord indicated that it was having difficulty providing oral evidence as it was not prepared. The Tenant stated that he only received the Landlord’s notice of hearing by text a few days ago with only some indication of amounts being claimed but was prepared to proceed. The Landlord stated that they thought the hearing was not going ahead and because they had no time they only texted the information to the Tenant. The Tenant was given a description of the documentary evidence provided by the Landlord and after receiving this description stated that it was no longer comfortable proceeding with the matter.

Section 59(3) of the Act provides that a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director. Section 89(1) of the Act provides that 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*].

Based on the undisputed evidence that the Tenant was only notified of this dispute a few days in advance of the hearing and only served with some information by text, I find that the Landlord did not serve the Tenant as required under the Act. As the Landlord made its application several months prior to this hearing I consider that the Landlord did not undertake due diligence to follow up its application for dispute resolution and unreasonably delayed the service of the materials to the prejudice of the Tenant. As the Tenant was not comfortable proceeding without the Landlord's evidence I dismissed the application. The Landlord has 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 Act.

Dated: June 27, 2019

---

Residential Tenancy Branch