



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNRL-S FFL

### **Introduction**

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

- a monetary order for unpaid rent in the amount of \$35,000 pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 1:48 pm in order to enable the tenants to call into this teleconference hearing scheduled for 1:30 pm. The landlords' agents attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlords' agents and I were the only ones who had called into this teleconference.

Landlords' agent SS testified that each tenant was served the notice of dispute resolution form and supporting evidence package via registered mail on December 30, 2019. SS provided a Canada Post tracking numbers confirming these mailings which are reproduced on the cover of this decision. I find that the tenants are deemed served with these packages on January 4, 2020, five days after SS mailed them, in accordance with sections 88, 89, and 90 of the Act.

### **Preliminary Issue – Jurisdiction**

At the outset of the hearing SS stated that the tenants were in rental arrears for \$47,700 (and not \$35,000 as stated on their application for dispute resolution). I advised the

tenants that the Residential Tenancy Branch only has jurisdiction on claims up to \$35,000 as per section 58 of the Act, which states:

- (2) Except as provided in subsection (4), if the director accepts an application under subsection (1), the director must resolve the dispute under this Part unless
- (a) the claim is for an amount that is more than the monetary limit for claims under the *Small Claims Act*,

The *Small Claims Court Monetary Limit Regulation* sets the limit for the *Small Claims Act* at \$35,000.

I advised the tenant that should they proceed with this hearing for rental arrears I would not be able to make a monetary order over \$35,000.

SS sought instructions from the landlords and then advised me that the landlords desired to claim for the full amount of rental arrears (\$47,700), and do not want to abandon their claim for any amount of \$35,000.

As such, I find that I do not have jurisdiction to adjudicate this matter, as the amount of the claim is greater than that limit under the *Small Claims Act*. The landlords will need to seek a different forum to have their claim heard.

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: March 9, 2020

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Residential Tenancy Branch