



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OLC, MNDCT, FFT

### Introduction

This hearing was scheduled to deal with a tenant's application for Orders for the landlords to comply with the Act, specifically the tenant's right to quiet enjoyment; and, for monetary compensation for loss of quiet enjoyment.

Both parties appeared or were represented at the hearing and had the opportunity to make relevant submissions and to respond to the submissions of the other party pursuant to the Rules of Procedure.

At the outset of the hearing, I explored service of hearing documents. The tenant testified she sent the proceeding package to the landlords via registered mail on April 28, 2020. The landlords confirmed receipt of the proceeding package by registered mail.

The tenant testified that she placed envelopes in the landlords' mailbox on May 12, 2020. The tenant described the content of the envelopes as being her Monetary Order worksheet, documentary evidence, and a thumb drive containing videos. The tenant acknowledged that she did not attempt to confirm with the landlords that they were able to see/hear the evidence contained on the thumb drive.

The landlord stated that during a previous dispute resolution proceeding the parties were instructed by the Arbitrator to only use registered mail to serve each other. The landlord provided the file numbers for the previous dispute resolution proceedings, which I have recorded on the cover page of this decision). Upon review of the decisions, I noted that there were no orders from the Arbitrator with respect to service. While I do not doubt that an Arbitrator may have suggested the parties use registered mail due to their elevated state of conflict, I did not consider such discussions to represent an order of the Director, as delegated to an Arbitrator.

Nevertheless, the landlords testified they did not receive any envelopes from the tenant for this proceeding in their mailbox although they also indicated they had not checked their mailbox. The landlords stated the only materials they received for this dispute was the proceeding package. I instructed the landlord to inspect the mailbox. The landlord indicated he checked the mailbox but there were no envelopes from the tenant.

The tenant testified that she had taken photographs when she placed the envelopes in the landlord's mailbox but the tenant did not upload the photographs as proof of service.

While a party may serve evidence by placing the evidence in a recipient's mailbox under section 88 of the Act, the person serving in this way has the burden to prove service occurred. I find the disputed oral testimony insufficient and the tenant did not meet her burden. Further, the tenant did not attempt to verify the landlords could see/hear the content of the thumb drive and a party intending to rely upon digital evidence is required to do so under the Rules of Procedure. Accordingly, I did not admit the tenant's evidence.

With respect to the tenant's monetary claim, Rule 2.5 and 3.1 of the Rules of Procedure require the claimant to provide a detail calculation with their Application for Dispute Resolution and to serve it upon the other party. The tenant's Monetary Order worksheet should have accompanied her Application for Dispute Resolution that was sent to the landlords via registered mail on April 28, 2020. Accordingly, I declined to hear the tenant's monetary claim and I dismissed it with leave to reapply.

I informed the parties that I was willing to hear the tenant's request for orders for compliance by way of oral testimony.

The landlords stated that they have sold the property and effective June 5, 2020 they will no longer be the tenant's landlords or residing on the residential property. The tenant acknowledged this information to be accurate and the need for orders for compliance was largely moot considering there were only a few days left in this landlord/tenant relationship.

In these circumstances, I was also of the view that the tenant's request for orders for compliance were largely moot at this point and I make no orders for compliance with this decision. This being said, it is important to point out that I make no finding as to whether there has been a breach of the tenant's right to quiet enjoyment and should the tenant file a monetary claim for such, she will bear the burden to prove a loss of quiet enjoyment and entitlement to compensation.

It should be noted that during the hearing, I recognized that the parties were in a high state of conflict and have very acrimonious relationship. I gave information and instructions to the parties with respect to the hearing process including instructions to not interrupt and to address only me. I had to additionally caution the landlords, and in particular the female landlord, to stop interrupting the proceedings and raising issues irrelevant to the matter before me. I further cautioned the female landlord that if she did not abide by my instructions to cease interruptions, I would exclude her or end the hearing. As the hearing was nearing an end, the female landlord began arguing with the tenant and I ended the hearing.

### Conclusion

The tenant's request for orders for compliance against these landlords is largely moot at this point because the tenancy is ending on June 5, 2020 and I make no orders with this decision.

The tenant's request for monetary compensation 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: June 02, 2020

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Residential Tenancy Branch