



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNRL-S, MNDCL-S, FFL

### Introduction

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

- a monetary order for unpaid rent and for compensation under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The "male landlord" and the tenant did not attend this hearing, which lasted approximately 18 minutes. The female landlord ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that the male landlord was her husband and that she had permission to represent him at this hearing (collectively "landlords").

The landlord testified that the tenant was served with the landlords' application for dispute resolution hearing package on June 7, 2020, by way of email. The landlords did not provide a copy of this email. The landlord asked how she would know to do so, after she provided screenshots as evidence of another email from April 2020 to the tenant.

The director's order, dated March 30, 2020, states the following regarding email service during the state of emergency (my emphasis added):

*Pursuant to sections 71(2)(b) and (c) of the Residential Tenancy Act and sections 64(2)(b) and (c) of the Manufactured Home Park Tenancy Act, I order that, until the declaration of the state of emergency made under the Emergency Program Act on March 18, 2020 is cancelled or expires without being extended:*

- a document of the type described in section 88 or 89 of the Residential Tenancy Act or section 81 or 82 of the Manufactured Home Park Tenancy Act has been sufficiently given or served for the purposes of the applicable Act if the document is given or served on the person in one of the following ways:
  - the document is emailed to the email address of the person to whom the document is to be given or served, and **that person confirms receipt of the document by way of return email** in which case the document is deemed to have been received on the date the person confirms receipt;
  - the document is emailed to the email address of the person to whom the document is to be given or served, and **that person responds to the email without identifying an issue with the transmission or viewing of the document, or with their understanding of the document**, in which case the document is deemed to have been received on the date the person responds; or
  - the document is emailed to the **email address that the person to whom the document is to be given or served has routinely used to correspond about tenancy matters from an email address that the person giving or serving the document has routinely used for such correspondence**, in which case the document is deemed to have been received three days after it was emailed.

Accordingly, I find that the landlords failed to provide sufficient evidence that the tenant was served with the landlords' application by email. The landlords did not provide a copy of the email or proof that the tenant could receive email service at a specific email address. The landlords failed to show who the email was sent to, where it was sent from, what information was included in the email, whether the tenant confirmed receipt of the email, whether the tenant responded to the email, and whether the tenant's and landlords' email addresses are routinely used for tenancy matters. These requirements are all noted in the above director's order to confirm or deem service of the email.

I notified the landlord that the landlords' application was dismissed with leave to reapply, except for the filing fee. I informed her that the landlords could file a new application and pay a new filing fee, if they wished to pursue this application further. I notified her that the landlords would be required to provide proof of service for the next hearing.

I informed the landlord that she could obtain information only, not legal advice, from an information officer at the Residential Tenancy Branch if she required further assistance. I notified her that she could hire a lawyer, in order to obtain legal advice, as I could not provide legal advice to the landlord during the hearing.

Preliminary Issue – Inappropriate Behaviour by the Landlord during the Hearing

Rule 6.10 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure* states the following:

*6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing*  
*Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator’s direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.*

Throughout the hearing, the landlord was upset and continuously interrupted me. The hearing took 18 minutes because I was attempting to answer the landlord’s questions and she argued with me and interrupted me. Every time I attempted to answer the landlord’s many questions, she interrupted me and spoke at the same time as me. The landlord became louder and more upset, as the hearing went on. When I asked the landlord to allow me to speak, so I could answer her questions, she continued to get upset and interrupt me. I cautioned her that I would end the hearing if she continued to get upset at me, interrupt me and not allow me to speak. The landlord also repeatedly asked questions wanting legal advice, after I repeatedly informed her that I could not provide her with legal advice.

The landlord then asked if the hearing was being recorded so that she could figure out how long she was speaking for, compared to me. I notified her that hearings were not recorded and could not be, according to the *Rules of Procedure*. She stated that she was not recording the hearing when I asked her.

I caution the landlord to not engage in the same inappropriate behaviour at any future hearings at the RTB, as this behaviour will not be tolerated, and she may be excluded from future hearings. In that case, a decision will be made in the absence of the landlord.

Conclusion

The landlords' application 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: June 30, 2020

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Residential Tenancy Branch