



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDCL-S, MNRL-S, FFL

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the *Act*), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for:

- a monetary order for unpaid rent and compensation for damage and loss under the Act, the Regulation or tenancy agreement pursuant to section 67 of the Act;
- authorization to retain the tenants' security deposit under Section 38 of the Act; and
- an authorization to recover the filing fee for this application, pursuant to section 72.

I left the teleconference connection open until 1:45 P.M. to enable the tenants (respondents) to call into this teleconference hearing scheduled for 1:30 P.M. The tenants did not attend the hearing. 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 landlord (applicant), her agent and I were the only ones who had called into this teleconference. The landlord and her advocate were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord affirmed she served the application and her evidence in a single package sent by registered mail and by email. The landlord could not provide the tracking number for the registered mail and the email was not submitted into evidence.

The Residential Tenancy Branch Director's order dated March 30, 2020 provides that:

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 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

Rule of Procedure 3.5 states:

3.5 Proof of service required at the dispute resolution hearing

At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure.

As the email was not submitted by the landlord, I can not confirm the email was sent to the email address that the tenants have routinely used to correspond about tenancy matters with the landlord. As the tracking number was not provided by the landlord, I can not confirm the package with the materials was mailed to the tenants. Furthermore, the landlord only sent one package addressed to one of the tenants.

Thus, I find the tenants were not served in accordance with the director's order or the Act.

Conclusion

I dismiss the landlord's application with leave to reapply.

I dismiss the landlord's application for an authorization to recover the filing fee for this application without 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: July 20, 2020