



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      MNSD, MNDC

### **Introduction**

This hearing dealt with an application for dispute resolution by the landlord, pursuant to the *Residential Tenancy Act*. The landlord applied for a monetary order to recover losses suffered due to a fraudulent cheque from the tenant.

The landlord attended this hearing. The tenant did not attend the hearing. The landlord was given full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

### **Preliminary and procedural matters**

As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. Section 59 (3) of the *Residential Tenancy Act* states 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.

The purpose of serving a notice of hearing and application for dispute resolution to the respondent is to notify the person being served of matters relating to arbitration and to provide the person with an opportunity for rebuttal.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were sent to the tenant by email. The tenant did not respond to the landlord's email. The landlord did not file proof of having served the tenant by email.

Under the order of the Director dated March 18, 2020, a document could be served by email for the duration of the state of emergency due to the Pandemic.

Rule 3.5 of the *Rules of Procedure* addresses proof of service required at the dispute resolution hearing. At the hearing, the parties must be prepared to demonstrate to the satisfaction of the arbitrator that other party was served with all evidence as required by the Act and these Rules of Procedure.

In this case the landlord stated that he had served the tenant with the notice of hearing package but did not provide proof of having done so.

### **Conclusion**

The landlord's 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: July 21, 2020

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Residential Tenancy Branch