



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, FF

### Introduction, Preliminary and Procedural Matters-

This hearing dealt with the tenants' application for dispute resolution under the Residential Tenancy Act (Act) for:

- compensation for a monetary loss or other money owed; and
- recovery of the filing fee.

The tenants attended the hearing; however, the landlord did not attend.

As the landlord was not present, the matter of service of the tenants' application and hearing documents was considered at length.

In response to my inquiry, the tenant, KD, said they did not serve the landlord with their Application for Dispute Resolution, evidence, and Notice of Hearing (application package) for several reasons.

The tenant said they did not receive the application package from the Residential Tenancy Branch (RTB) to serve on the landlord and she did not know they had to serve the landlord. The tenant also said she thought the RTB handled service to the other party and everything to do with the dispute resolution application.

When I informed the tenant that the RTB sent her an email on May 27, 2020 with the attached application package, she did locate that email during the hearing.

I note that I had the tenant confirm her email address during the hearing.

The tenant also said she was unable to upload any evidence into the RTB system when I informed her that no evidence had been filed.

### Analysis and Conclusion

Section 89(1) of the Act indicates the ways in which an application for dispute resolution must be given, such as in the case of the tenants' claim for monetary compensation:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 71 (1) *[director's orders: delivery and service of documents]*.

In the case before me, as the tenants confirmed that they did not serve their application package, including the notice of this hearing, to the landlord as required by the Act, I could not proceed on the tenants' application in this hearing.

Both parties have a right to a fair hearing and the landlord would not be aware of the hearing without having been served the Notice of a Dispute Resolution Hearing and application as required by the Act.

I therefore **dismiss** the tenants' application for monetary compensation, **with leave to reapply**.

I **dismiss** the tenants' request for recovery of the filing fee, **without leave to reapply**.

Leave to reapply does not extend any applicable time limitation deadlines.

In the event the tenants make another application, the tenants are cautioned that it is their obligation to follow-up with the RTB about the status of their application, to serve the landlord with their application package themselves, to file evidence, which must be served to the landlord, and to provide a detailed calculation of any monetary claim they may make.

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: September 28, 2020

---

Residential Tenancy Branch