



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNRL-S, FFL

### Introduction

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

- a monetary order for unpaid rent, 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 15 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 18 and 19, 2020, both by way of email. The landlord stated that she did not provide a copy of these emails.

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 emails 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. The landlord confirmed that she did not pay a filing fee, as it was waived. 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.

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: October 08, 2020

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Residential Tenancy Branch