



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNRL-S, MNDL-S, FFL

### Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution filed under the *Residential Tenancy Act* (the "*Act*"), made on July 9, 2020. The Landlord applied for a monetary order for unpaid rent, a monetary order for compensation for damage caused by the Tenant, permission to retain the security deposit and to recover the filing fee paid for the application. The matter was set for a conference call.

The Landlord, the Landlord's spouse and their attorney (the "Landlord") attended the hearing; the Landlord was affirmed to be truthful in their testimony. As the Tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing documents was considered. Section 59 of the *Act* states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified that the Application for Dispute Resolution, Notice of Hearing documents and the evidence had been posted to the Tenants Facebook account on October 22, 2020. The Landlord submitted an affidavit of service into documentary evidence. The Landlord testified that they understood Facebook was not an approved method of service but that the Tenants were hiding to avoid service for these proceedings.

The Landlord acknowledged that the service of the Notice of Hearing documents had not been completed within the required timeline or by an approved method. The Landlord testified that they had submitted three Substituted Service requests to the Residential Tenancy Branch (RTB), but that all three had been denied, which delayed the serve of these documents. The Landlord testified that they would have submitted a fourth Substituted Service request for service by Facebook post but they had run out of

time. The Landlord requested that their Substituted Service request, for service by Facebook post, be considered in these proceedings.

This Arbitrator asked the Landlord if they confirm that the Tenants had received their Facebook post containing the hearing Notification Documents. The Landlord testified that they could not confirm if the Tenants had viewed the Facebook post but that they could prove that the Tenants had last been active on Facebook, as recent as September 22, 2020. The Landlord testified that although they could not confirm if the Tenants had received their October 22, 2020, they believed the Facebook post should be sufficient given they can show that the Tenants Facebook account was active, as of September 22, 2020.

The Landlord was asked if they could show if the Tenants had been active on this Facebook account since the Notice was posted; the Landlord testified that they had no evidence that the Tenants had been active on their Facebook account since September 22, 2020.

The Landlord was advised during these proceedings, that in the absence of evidence to show that the Tenants had received the Facebook post or evidence to show that the Tenants had been active on their Facebook account after the Landlord's post, I find that it could not be reasonably concluded that the service of the Notice of Hearing document by Facebook post had been successful.

Consequently, I must dismiss the Landlord's Substituted Service request for service of the Notice of Hearing Document, by Facebook post, as there is insufficient evidence before me to show that the Facebook post had resulted in the Tenants having knowledge of these proceedings.

The Landlord argued that the Tenants were intentionally hiding to avoid these proceedings and that the RTB was abandoning their jurisdiction by refusing to hear this matter due to service. The Landlord requested an adjournment, stating that they wish to take this matter to the British Columbia Supreme Court.

The Landlord was advised that a possible application to the British Columbia Supreme Court was not sufficient grounds to adjourn these proceedings and that their adjournment request was denied.

Overall, I find that the Landlord has not satisfied me that the Tenants had been duly served with the Notice of Hearing in accordance with section 89(1) of the Act.

Therefore, I dismiss the Landlord's application with leave to reapply. This decision does not extend any legislated timelines pursuant to the Act.

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 30, 2020

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Residential Tenancy Branch