



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNRL-S, MNDL-S, MNDCL-S, FFL

### Introduction

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

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

The two tenants did not attend this hearing, which lasted approximately 14 minutes. The two landlords, male landlord ("landlord") and "female landlord," attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

### Preliminary Issue – Service of Landlords' Application

The landlord testified that the tenants were each served with separate copies of the landlords' notice of hearing, respondent instructions, the landlord-tenant fact sheet, and a USB drive with evidence on October 21, 2020, both by registered mail. The landlords provided two Canada Post receipts and the landlord confirmed the tracking numbers verbally during the hearing. The landlords did not indicate what address was used to send the mail.

The landlord first stated that the above documents were served on October 9, 2020, then claimed that was the filing date. He then claimed that the mail was sent on October 13, 2020. Finally, he said it was served on October 21, 2020. Both landlords were searching for their receipts and looking up information online during the hearing.

The landlord stated that he did not serve the tenants with the landlords' application for dispute resolution. The landlords provided four photographs of the above documents and USB drive that were sent to the tenants, in their evidence. The landlord claimed that he must not have received a copy of the application from the Residential Tenancy Branch or it would have been served to the tenants.

I find that the landlords did not serve the tenants with their application for dispute resolution, as required by section 89 of the *Act*. I find that the tenants did not have notice of the landlords' application. The tenants did not appear at this hearing to confirm receipt of the landlords' application. Accordingly, I find that the landlords failed to prove service in accordance with section 89 of the *Act* and the tenants were not served with the landlords' application.

At the hearing, I informed the landlords that I was dismissing their application with leave to reapply, except for the filing fee. I notified them that they could file a new application, pay a new filing fee, and prove service at the next hearing, if they wished to pursue this matter further. The landlords confirmed their understanding of same.

I informed the landlords that they could hire a lawyer to obtain legal advice, as I could not provide legal advice to them. The landlords confirmed their understanding of same.

### 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: February 02, 2021

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Residential Tenancy Branch