



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, MNDCL-S, FFL

Introduction

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

- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover her filing fee for this application from the tenant pursuant to section 72.

The landlord and her translator, S.L. attended the hearing via conference call and provided affirmed testimony. Both tenants attended the hearing via conference call and provided affirmed testimony.

The landlord stated that the tenants were served via email as per a substitute service application. A review of the Residential Tenancy File shows that no such order was made and in fact the application was dismissed on October 21, 2020. The landlord repeatedly stated that she was informed by her agent that a substitute service order was granted and cannot understand what happened. The landlord repeatedly stated that her agent received a telephone call authorizing the landlord to serve the hearing package via email. The tenants both argued that no such package was received and stated that they have not been given an opportunity to submit any documentary evidence against the landlord's claim.

I find based upon the affirmed testimony of both parties that the landlord has failed to provide proper service of the notice of hearing package and the submitted documentary

evidence as per sections 88 and 89 of the Act. The landlord's application is dismissed with leave to reapply for lack of service.

The landlord was cautioned that she needed to have an conversation in detail with her agent with perhaps the assistance of a translator present to assist her. The landlord is also cautioned that a call into the Residential Tenancy Branch Information line is recommended for more information, 1-800-665-8779.

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 05, 2021

Residential Tenancy Branch