



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, MNRL-S, MNDL-S, FFL

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

- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- an order of possession for non-payment of rent pursuant to section 55;
- an order of possession for cause pursuant to section 55;
- a monetary order for unpaid rent in the amount of \$2,955 pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 11:20 am in order to enable the tenants to call into this teleconference hearing scheduled for 11:00 am. The landlord's property manager ("**JB**") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that JB and I were the only ones who had called into this teleconference.

JB was unable to confirm that she served the tenants with the landlord with the notice of dispute resolution proceeding form and supporting evidence package in advance of the hearing. She testified that the tenants vacated the rental unit in the first week of December 2020 and did not provide a forwarding address. She testified that, prior to their moving out, they had been served with many of the documents that she uploaded to the Residential Tenancy Branch evidence portal in support of her application. She testified that she did not serve the tenants with any documents after they left. The notice of dispute resolution form is dated December 24, 2020 (that is, after the tenants vacated the rental unit). As such, it could not have been among the documents given to the tenants.

Accordingly, I find that the tenants have not been served with the notice of dispute resolution proceeding form, as required by RTB Rule of Procedure 3.1, and as such, they have no notice of this hearing.

I dismiss the landlord's application, 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: March 16, 2021

Residential Tenancy Branch