



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDCT, MNSD, RPP, FFT

This hearing was convened as a result of the Tenant's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for a monetary order for damage or compensation under the Act of \$14,231.26; for a monetary order for the return of the \$600.00 security deposit; for an order for the Landlord to return the Tenant's personal property; and to recover the cost of her \$100.00 Application filing fee.

The Tenant attended the hearing, but no one attended on behalf of the Landlord. The teleconference phone line remained open for over 25 minutes and was monitored throughout this time. The only person to call into the hearing was the Tenant, who indicated that she was ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, was the Tenant.

An initial hearing was held on March 23, 2021 for the Tenant's Application; however, the Landlord did not attend this hearing, either. When he received a copy of the original arbitrator's decision, the Landlord applied for a review of that decision. The Landlord's review application was granted on the ground that the Landlord was unable to attend the original hearing, because he did not receive the Tenant's Application, Notice of Hearing, and evidentiary submissions package from her. In his application for review, the Landlord said that his address in the Tenant's Application was incorrect. The reviewing arbitrator was satisfied that the Landlord had not received the documents from the Tenant, based on this incorrect address for service, and therefore, the reviewing arbitrator ordered a new hearing,

The reviewing arbitrator also ordered the Landlord to serve to the Tenant with the review consideration decision within three days of receipt of that decision. The arbitrator also provided the Landlord with the Tenant's current address for service.

The reviewing arbitrator also ordered the Tenant to re-serve the Landlord with her Application and supporting material within three days of the day the Landlord served her with the Notice of Hearing for this second hearing. Further, the Tenant was provided with the Landlord's correct mailing address for this purpose.

In the review consideration decision, the arbitrator also said:

Failure to attend the hearing at the scheduled time and to meet deadlines for the submission and service of evidence may result in a decision being made on the basis of information before the arbitrator and the testimony of the party in attendance at the hearing.

When I asked the Tenant when and how she re-served the Landlord with her Application and evidentiary submissions, she gave me the date and method of having initially tried to serve the Landlord in January 2021. The Tenant said she had not re-served the Landlord at the correct address. She said she had not noticed this order in the review consideration decision.

Based on the evidence before me in this matter, and on a balance of probabilities, I find that the Tenant failed to abide by the Order in the review consideration decision. I find that the Tenant failed to serve the Landlord with her Application and evidentiary submissions to the Landlord's correct address. As a result, I dismiss the Tenant's Application without leave to reapply, pursuant to section 62 of the Act.

### Conclusion

The Tenant's Application is dismissed without leave to reapply, as the Tenant failed to re-serve the Landlord with the Tenant's Application and evidentiary submissions for the new hearing, which was ordered by the arbitrator who reviewed the original decision in this matter.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: June 17, 2021

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Residential Tenancy Branch