



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding shannon shores leisure resort ltd  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, FFL, MNRL, MNDCL  
MNR-DR, OPR-DR, FFL

### Introduction

This hearing was convened by way of conference call concerning 2 applications made by the landlord. The first application seeks an Order of Possession for cause; a monetary order for unpaid rent or utilities; a monetary order for money owed or compensation for damage or loss under the *Residential Tenancy Act*, regulation or tenancy agreement; and to recover the filing fee from the tenants for the cost of the application. The landlord has amended the application twice, once to change the monetary claim amount for unpaid rent and compensation for monetary losses, and the second amendment shows photographs only. The second application was made by way of the Direct Request process claiming an Order of Possession and a monetary order for unpaid rent or utilities and to recover the filing fee from the tenants for the cost of the application, which was referred to this participatory hearing, joined to be heard with the landlord's first application.

An agent for the landlord and both tenants attended the hearing, during which one of the tenants indicated that no documents have been served on the tenants by the landlords. The landlord's agent replied that the first Hearing Package was served to each tenant individually by registered mail on May 29, 2021 and the amendment on July 21, 2021. The second Hearing Package was individually served to the tenants on June 12, 2021, and both Hearing Packages included the landlord's evidentiary material. The documents were served to the rental unit address because that's the only address the landlord has for the tenants, however the tenants vacated the rental unit on May 5 and May 27, 2021. The documents were not returned to sender so the tenants must have received them. On August 5, 2021 the landlord followed-up by emailing the tenants stating that the same documents were attached to the email that had been sent by registered mail.

The landlord's agent also submitted that the tenant's evidentiary material for this hearing has not been provided by the tenants. The tenant submitted that the evidence was sent to

the landlord by registered mail, and provided 4 dates: April 21, April 26, May 25 and August 6, 2021.

The landlord's agent responded that the parties have another hearing scheduled for August 23, 2021, and perhaps the tenant is confused.

The tenants' evidence was uploaded to the Residential Tenancy Branch case management and dispute system on August 16, 2021, which is 4 days prior to the hearing.

I am not satisfied that either party has complied with the *Act* or the Rules of Procedure regarding service or delivery of documents or evidence. The tenant gave too many dates of when the landlord may have been served with the tenants' evidence and did not provide any evidence to the Residential Tenancy Branch at least 7 days prior to the hearing as required by the Rules. The landlord served the tenants with a Hearing Package at an address that the landlord is well aware the tenants do not reside at.

In this case, the landlord bears the first burden of proving that the tenants were served in accordance with the *Act*, not at the rental address that they no longer reside in or have not provided to the landlord. Therefore, I dismiss the landlord's applications with leave to reapply.

I have made no findings of fact or law with respect to the merits of this matter.

During the course of the hearing the tenant advised that the tenants do not have internet service and therefore no email address. The tenant orally provided an address for service.

### Conclusion

For the reasons set out above, the landlords' applications are hereby dismissed in their entirety 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: August 20, 2021

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Residential Tenancy Branch