



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

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

### Introduction

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

- A monetary award for damages and loss pursuant to section 67;
- Authorization to retain the security deposit pursuant to section 38; and
- Authorization to recover their filing fee from the tenant pursuant to section 72.

The tenants did not attend this hearing, which lasted approximately 10 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord was made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and they testified that they were not making any recordings.

The landlord testified that they served their application and evidence on the tenants by registered mail sent to an address listed on their driver's license. The landlord provided a valid Canada Post tracking number as evidence of service.

### Issue(s) to be Decided

Is the landlord entitled to any of the relief sought?

## Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The landlord gave undisputed evidence that this periodic tenancy began in May 2020. The tenants vacated the rental unit without notice sometime in April 2021. The monthly rent for this tenancy was \$2,000.00 payable on the 27<sup>th</sup> of each month. A security deposit of \$2,000.00 was collected at the start of the tenancy and is still held by the landlord.

The landlord testified that they had a photocopy of the driver's license for one of the tenants on file from when the tenancy began and sent their application and evidentiary materials to the address on the identification.

## Analysis

Section 89(1) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution for a monetary award:

*89(1) An application for dispute resolution,...when required to be given to one party by another, must be given in one of the following ways:*

- (a) by leaving a copy with the person;*
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;*
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;*
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;*
- (e) as ordered by the director under section 71(1) [director's orders: delivery and service of document]...*

The landlord testified that they had a copy of a driver's license presented at the start of the tenancy and served the tenants by mailing to the address found on the license. I find that an address indicated on a piece of identification is not a forwarding address and it is unlikely that the address provided on a document from over a year ago is the address at which the tenants reside. I find that sending the hearing package to an address found on an old piece of identification does not satisfy me that the tenants were served in a manner consistent with section 89(1) of the *Act* or at all. I accordingly find

that the tenants were not properly served with the application for dispute resolution and consequently dismiss the landlord's application in its entirety with leave to reapply.

Conclusion

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: November 23, 2021

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Residential Tenancy Branch