



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDCT, MNETC

Introduction

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

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to obtain a return of all or a portion of her security deposit pursuant to section 38;

The tenants attended the hearing via conference call and provided affirmed testimony. The landlords did not attend or submit any documentary evidence.

The tenants were advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

The tenants stated that they served the landlords with the notice of hearing package via email on June 2, 2021.

The tenants clarified that they were not aware of the requirements in order to serve the notice of hearing package to the landlords via email. The tenants stated that they believed that because of COVID they were allowed to serve all documents via email. Section 89 of the Act states in part that an application 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 documents*];
- (f)by any other means of service provided for in the regulations.

The tenants were advised that while the regulations do allow for the service of the hearing package via email, the applicant must have the prior written consent of the respondent regarding service of the package or obtain an order authorizing substitute service via email made by an Arbitrator. In this case neither was obtained. On this basis, the tenants' application is dismissed with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

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 19, 2021

Residential Tenancy Branch