



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR-S, FF

### Introduction, Preliminary and Procedural Matters-

This hearing convened to deal with the landlords' application for dispute resolution seeking remedy under the Residential Tenancy Act (Act) for:

- a monetary order for unpaid rent;
- authority to keep the tenant's security deposit to use against a monetary award; and
- to recover the cost of the filing fee.

The landlords attended; the tenant did not attend the telephone conference call hearing. As a result, service of the landlords' Application for Dispute Resolution, evidence, and Notice of Hearing (application package) was considered.

The landlords said the tenant vacated the rental unit without notice and without leaving a forwarding address. The landlords said the tenant abandoned the rental unit 8 months into a two year, fixed-term tenancy. The landlords said they did not know the whereabouts of the tenant presently or at the time of their application.

As to service of their application package, the landlords said they served the tenant their application by email attachment.

Upon further inquiry, the landlords said that they had a text message from the tenant that they could sent him documents by email. That text message was not provided into evidence.

### Analysis and Conclusion

Section 59(3) of the Act requires that a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it.

Section 89(1) of the Act requires that an application for dispute resolution, involving disputes other than an order of possession of the rental unit, an early termination of the tenancy, or a frustrated tenancy, must be given by handing the documents to the person or by registered mail to the address at which the person resides, by registered mail to a forwarding address provided by the tenant, or by any other means of service provided for in the regulations.

The regulations state that the documents in section 89(1) of the Act may be given to a person by emailing a copy to an email address provided as an address for service by the person.

In the case before me, the landlords confirmed they do not know where the tenant lives or where he can be found. Therefore, they were not able to serve the tenant by registered mail or by personal service.

Further, the landlords did not provide proof that the tenant provided his email address for service of documents.

For these reasons, I find the landlords submitted insufficient evidence that their application for dispute resolution was served in a manner required by the Act or regulations.

Both parties have a right to a fair hearing and the tenant would not be aware of the hearing without having been served the Notice of a Dispute Resolution Hearing and application as required by the Act or regulations.

I therefore **dismiss** the landlords' application for unpaid monthly rent and authority to keep the tenants' security deposit, **with leave to reapply**.

Leave to reapply does not extend any applicable time limitation deadlines.

The landlords should submit all their evidence for a hearing, including proof of any authority granted to them by the tenant for service of documents, for any future dispute resolution hearings. For instance, a copy of the text message communication.

The landlords were informed that they could apply for an order of substituted service if they choose to file an application for dispute resolution in the future.

As I have not considered the merits of the landlord's application, I dismiss their request to recover the cost of the filing fee, without leave to reapply.

I have not ordered the landlord to return the tenant's security deposit, as there was no evidence presented that the tenant provided a written forwarding address to the landlords.

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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: December 2, 2021

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Residential Tenancy Branch