



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

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

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for a monetary order in the amount of \$2,350.00 for unpaid rent or utilities, for damage or loss under the Act, regulation or tenancy agreement, to retain all or a part of the tenant's security deposit, and to recover the cost of the filing fee.

An agent for the landlord, HC (agent) attended the teleconference hearing. As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated September 23, 2021 (Notice of Hearing), application and documentary evidence were considered. The agent testified that the Notice of Hearing, application and documentary evidence was served by email on the tenant. Therefore, *Residential Tenancy Regulation* section 43(2) applies and states:

#### **Other means of giving or serving documents**

**43(2)** For the purposes of section 89 (1) (f) [*special rules for certain documents*] of the Act, the documents described 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.**  
[emphasis added]

Given the above, the agent was asked when the tenants provided their email address for service purposes. The agent stated that it was included in the tenant's Direct Request application, which was reviewed during the hearing. The file number of the tenant's Direct Request application has been included on the cover page of this decision for ease of reference. As the tenants provided their physical address for service and not their email address, I am not satisfied that the landlord served the tenant in a method approved under the Act.

Both parties have the right to a fair hearing. The tenants would not be aware of the hearing without having been served with the Notice of Hearing and application in a method approved under the Act. Therefore, **I dismiss** the landlord's application **with leave to reapply** as I am not satisfied the tenants have been sufficiently served with the Notice of Hearing and application in a method provided for under the Act and the Rules. I note this decision does not extend any applicable time limits under the Act.

Due to a service issue, I do not grant the filing fee under the Act.

As the landlord has applied against the tenants' security deposit, I will deal with the security deposit under section 38 of the Act. As the tenants provided their written forwarding address I make the following order pursuant to section 62(3) of the Act.

**I ORDER** the landlord to return the tenants' full \$450.00 security deposit within 15 days of the date of this decision, June 1, 2022. Should the landlord fail to return the tenants' security deposit, I am granting the tenants a monetary order in the amount of **\$450.00**, which will be of no force or effect if the landlord pays the tenants as ordered above.

This decision will be emailed to both parties at the email addresses provided in the landlord's application.

The monetary order will be emailed to the tenants only which should not be served or enforced until 15 days after June 1, 2022. If the landlord pays the tenants the amount of \$450.00, the monetary order will be of no force or effect.

### Conclusion

The landlord's application is dismissed with leave to reapply due to a service issue as indicated above.

This decision does not extend any applicable time limits under the Act.

The filing fee is not granted due to a service issue.

This decision will be emailed to the landlord and tenants. The monetary order will be emailed to the tenants only, for service on the landlord, if necessary. The tenants have been granted a monetary order of \$450.00 as noted above.

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 1, 2022

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Residential Tenancy Branch