



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNRL, FFL

### Introduction

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

- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

"Landlord MM" and the tenant did not attend this hearing, which lasted approximately 12 minutes. Landlord SM ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

This hearing began at 1:30 p.m. and ended at 1:42 p.m. I monitored the teleconference line throughout this hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only people who called into this teleconference.

The landlord provided her name and spelling. She provided her email address for me to send this decision to both landlords after the hearing. She confirmed that she co-owns the rental unit with landlord MM. She provided the rental unit address. She confirmed that she had permission to represent landlord MM, the other landlord named as an applicant in this application, at this hearing (collectively "landlords").

Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* does not permit recording of this hearing by any party. At the outset of this hearing, the landlord affirmed, under oath, that she would not record this hearing.

I explained the hearing process to the landlord. She did not make any adjournment or accommodation requests.

### Preliminary Issue – Service of Landlords' Application

The landlord testified that she personally served the tenant with the landlords' application within the time frame allowed. She said that she did not know the date of service and she could not find it during this hearing. She stated that the tenant did not provide her with a mailing address. She claimed that she served the tenant at her workplace and then had to call the police after, so the police issued a report to her.

Section 89(1) of the *Act* states the following (my emphasis added):

*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 documents];*

*(f) by any other means of service provided for in the regulations.*

Residential Tenancy Policy Guideline 12 states the following, in part (my emphasis added):

#### *15. PROOF OF SERVICE*

**Where the respondent does not appear at a dispute resolution hearing, the applicant must be prepared to prove service of the notice of hearing package.** Proof of service of other documents may be submitted in support of claims for dispute resolution in accordance with the Rules of Procedure.

*Where proof of service is required, the person who actually served the documents must either:*

- be available as a witness in the hearing to prove service, or*

- *provide a signed statement with the details of how the documents were served.*

**Proof of service personally should include the date and time of service, the location where service occurred, description of what was served, the name of the person who was served, and the name of the person who served the documents.**

...

**Failure to prove service may result in the matter being dismissed, with or without leave to reapply...**

I find that the tenant was not served with the landlords' application, as required by section 89 of the Act and Residential Tenancy Policy Guideline 12, as noted above.

The landlord did not provide a date of service during this hearing. The landlord was given ample time of 12 minutes during this hearing, to find and provide this information. The tenant did not attend this hearing to confirm service.

I notified the landlord that the landlords' application for a monetary order for unpaid rent was dismissed with leave to reapply. I informed her that the landlords' application for the \$100.00 filing fee was dismissed without leave to reapply and they could not reapply for same in the future. I informed her that the landlords could file a new application, if they want to pursue their claim for a monetary order for unpaid rent, in the future.

#### Preliminary Issue – Inappropriate Behaviour by the Landlord during this Hearing

Rule 6.10 of the RTB *Rules of Procedure* states the following:

**6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing**  
*Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.*

From the outset of this hearing, the landlord was angry, upset, and agitated. Throughout this hearing, the landlord repeatedly interrupted me, despite the fact that I warned her multiple times.

When I asked the landlord about service of the landlords' application to the tenant, she became very upset. She said that she did not have the date of service and she needed to look it up. She questioned why I was asking her about service information. I notified the landlord that I was required, by law, to confirm that the tenant was served with the landlords' application before I could proceed with this hearing. I informed her that the tenant was not present at this hearing to confirm that she received the landlords' application, as the landlord heard me verbally check the teleconference line repeatedly during this hearing, to ask if the tenant was present. I informed the landlord that she received a detailed application package when the landlords filed this application, with information regarding the hearing process.

I informed the landlord that I provided her with additional time during this hearing, as she requested, to find service information, since she did not have it at the outset of this hearing, as required. The landlord was given ample and additional time of 12 minutes during this hearing, to search for service information, but she was still unable to provide a date of service.

When I informed the landlord about my decision verbally during this hearing, she became upset and repeatedly interrupted me. I was unable to speak without repeated interruption, after warning the landlord multiple times. Therefore, I thanked the landlord for attending the hearing and closed the conference.

### Conclusion

The landlords' application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The landlords' application for a monetary order for unpaid rent is dismissed 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: June 16, 2022

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Residential Tenancy Branch