



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

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

### Introduction

This hearing dealt with an application filed by the landlord pursuant the *Residential Tenancy Act* (the “Act”) for:

- A monetary order for unpaid rent and authorization to withhold a security deposit pursuant to sections 67 and 38;
- An order of possession for unpaid rent pursuant to sections 46 and 55;
- An order to be compensated for a monetary loss or other money owed and authorization to withhold a security deposit pursuant to sections 67 and 38; and
- Authorization to recover the filing fee from the other party pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 1:50 p.m. to enable the tenant to call into this teleconference hearing scheduled for 1:30 p.m. 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 ones who had called into this teleconference.

The landlord attended the hearing and testified that she personally served the tenant with the Notice of Dispute Resolution Proceedings at 3:30 p.m. on April 27, 2022. I find the tenant duly served with the Notice of Dispute Resolution Proceedings package on that day pursuant to sections 89 and 90 of the *Act*.

### Preliminary Issue

At the commencement of the hearing, the landlord testified that the tenant had vacated the rental unit on May 16<sup>th</sup>. Based on this evidence from the landlord, I find that the tenant accepted the validity of the Notice to End Tenancy or otherwise agreed to terminate the tenancy and order that the tenancy ended on that date pursuant to section

44(1)(f). As such the landlord's application seeking an Order of Possession is dismissed without leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent or damages?

Can the landlord recover the filing fee?

Background and Evidence

The landlord testified that she and the tenant did not sign a tenancy agreement. The rental unit is one room in a house occupied by several tenants. The landlord testified that she does not live in the residential property occupied by the tenants; her residence is elsewhere. The landlord does not carry on business at the residential property, she simply collects rent from the property as income.

On both the application for dispute resolution and the notice to end tenancy issued to the tenant, the landlord provided the rental unit address as the landlord's address for service. The landlord justified this, saying she sometimes gets mail sent to the rental address.

When the tenant moved out, the tenant did not provide a forwarding address. The main form of communication with the tenant was via text message.

Analysis

Section 13(2) of the Residential Tenancy *Act* states that a tenancy agreement must comply with any requirements prescribed in the regulations and must set out all of the following:

(e) the address for service and telephone number of the landlord or the landlord's agent.

Section 88 states:

**88** All documents, other than those referred to in section 89 [*special rules for certain documents*], that are required or permitted under this *Act* to be given to or served on a person must be given or served 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 ordinary mail or 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 ordinary mail or registered mail to a forwarding address provided by the tenant;
- (e)by leaving a copy at the person's residence with an adult who apparently resides with the person;
- (f)by leaving a copy in a mailbox or mail slot for the address at which the person resides or, if the person is a landlord, for the address at which the person carries on business as a landlord;
- (g)by attaching a copy to a door or other conspicuous place at the address at which the person resides or, if the person is a landlord, at the address at which the person carries on business as a landlord;
- (h)by transmitting a copy to a fax number provided as an address for service by the person to be served;
- (i)as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*];
- (j)by any other means of service provided for in the regulations.

The landlord acknowledges that she does not live at the rental property, yet she provided the rental property address as an address for service on both the notice to end tenancy and the application for dispute resolution. Nowhere else does the landlord reveal her residential address or place of business to the tenant.

I find that the tenant, although served with the Notice of Dispute Resolution Proceedings, was not provided with an address where he could effectively serve the landlord with any materials in response to the landlord's application pursuant to section 88 or a cross application of his own pursuant to section 89. I find the landlord's failure to provide a legitimate address for service would breach the principles of natural justice and procedural fairness by denying the tenant the ability to wholly defend the application or make an application for dispute resolution against the landlord.

For that reason, I dismiss the landlord's application with leave to reapply.

The landlord may file another application seeking compensation from the tenant, however the landlord is put on notice that she must provide an address for service that is not the rental unit.

Conclusion

The application 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: August 12, 2022

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Residential Tenancy Branch