



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 1700 PENDRELL HOLDINGS INC.  
and [tenant name suppressed to protect privacy]

## DECISION

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

### Introduction and Analysis

This hearing dealt with a landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for a monetary order in the amount of \$11,095 for damages to the rental unit, unpaid rent or utilities, compensation for damage or loss, to use the security deposit and pet damage deposit towards any amount owing, and to recover the filing fee.

Three landlord representatives, TP (Property Manager 1), NO (Property Manager Administrator) and DB (Property Manager 2) attended the teleconference hearing and were affirmed. As the tenant did not attend the hearing, the representatives were asked how the tenant was served with the Notice of Dispute Resolution Hearing dated February 15, 2022 (Notice of Hearing). TP testified that the tenant did not provide their written forwarding address since vacating the rental unit on November 2, 2020. TP testified that the tenant was served via email on April 12, 2022. The representatives confirmed that the tenant did not respond to their email dated April 12, 2022.

Section 43(2) of the *Residential Tenancy Regulation* 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]

The landlord was unable to present documentary evidence or testimony to support that the respondent tenant provided their email address as a method for service. Both parties have the right to a fair hearing. The tenant would not be aware of the hearing

without having received the Notice of Hearing and application. Therefore, **I dismiss** the landlord's application **with leave to reapply** as I am not satisfied that the tenant has been sufficiently served with the Notice of Hearing and application in a manner provided for under the Act. I note this decision does not extend any applicable time limits under the Act.

In addition to the above, the applicant is also provided with the following information within the Fact Sheet "The Dispute Resolution Process" included in the email sent to the landlord by the Residential Tenancy Branch (RTB) on February 15, 2022, which confirms that the Notice of Hearing must be served within 3 days of February 15, 2022. Instead, the landlord waited almost two months, on April 12, 2022, which I find is contrary to the service requirements given to the landlord.

Finally, RTB Rules of Procedure (Rules) 2.5 and 3.14 require that evidence intended to be relied upon at the hearing should be submitted at the time the application was submitted and no later than 14 days prior to the hearing. In the matter before me, the landlords failed to comply with those dates also by submitting their documentary evidence 13 days before the hearing.

Given the above, I decline to award the filing fee due to service issues.

### Conclusion

The landlord's application is dismissed with leave to reapply due to the service issues indicated above.

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

This decision will be emailed to all parties.

As the tenant failed to serve the landlord with a written forwarding address within one year of November 2, 2020, I find that on November 2, 2021 and pursuant to section 39 of the Act, the tenant extinguished their right to both the security deposit and pet damage deposit and that the landlord may keep both as a result.

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

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: September 20, 2022

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Residential Tenancy Branch