



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDCL, MNRL-S, FFL

### Introduction

The Landlord filed an Application for Dispute Resolution (the “Application”) on February 15, 2022 seeking compensation from the past Tenants, and the Application filing fee. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on October 3, 2022.

The Landlord did not attend the hearing, although the left the teleconference hearing connection open until 1:40pm to enable the Landlord to call in to this teleconference hearing scheduled for 1:30pm.

I confirmed the correct call-in number and participant code was provided in the Notice of Dispute Resolution Proceeding document. I also confirmed throughout the duration of the call that the Landlord was not in attendance.

Rule 7.3 of the *Residential Tenancy Branch Rules of Procedure* provides that if a party or their agent fails to attend the hearing, the arbitrator may conduct the hearing in the absence of that party or dismiss the application without leave to reapply.

Additionally, the Tenant who attended the call stated they did not receive notice from the Landlord directly about this hearing. They received a courtesy reminder about the hearing from the Residential Tenancy Branch on September 19, 2022.

The *Residential Tenancy Branch Rules of Procedures*, Rule 3, provides the rules on serving the application and hearing information. This is to ensure the objective of a fair, efficient, and consistent process for resolving disputes. Rule 3.1 sets the timeline of initial service after an application:

The applicant must, **within three days** of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the Notice of Dispute Resolution Proceeding . . .
- b) the Respondent Instructions for Dispute Resolution;
- c) the dispute resolution process fact sheet (RTB-114) . . . provided by the Residential Tenancy Branch; and
- d) any other evidence submitted to the Residential Tenancy Branch . . .

One form that is provided to the parties in this process is the *Residential Tenancies Fact Sheet – The Dispute Resolution Process* (RTB-114). This form sets out this three-day timeline.

Additionally, the *Act* s. 59(3) sets out 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. . .”

I conclude the Landlord did not serve the Notice to the Tenants in line with the *Rules of Procedure* and the *Act*. This prejudiced the Tenants as the respondent in this hearing. For this reason, I dismiss the Landlord’s Application, without leave to reapply.

### Conclusion

As the applicant did not attend to present their application, I dismiss the Landlord’s application in its entirety, without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: October 03, 2022

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Residential Tenancy Branch