



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNRL-S, MNDL-S, FFL**

Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 72 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

The landlord EH attended for both landlords ("the landlord") and had opportunity to provide affirmed testimony, present evidence and make submissions.

The hearing process was explained.

The landlord stated they were not recording the hearing.

The landlord provided the email address to which the Decision shall be sent.

Service

The tenants (“the tenant”) did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional 43 minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant was provided.

The landlord obtained an Order for Substituted Service on June 8, 2022 allowing the landlord to serve the tenants individually by email at the email addresses on the Decision. The landlord provided affirmed testimony that they served each tenant as directed in the Order with the Notice of Hearing, Application for Dispute Resolution and copy of the Order by email sent on June 11, 2022.

The Order stated:

I order the landlords to provide proof of service of the e-mails which may include printouts of the sent items, confirmation of delivery receipts, or other documentation to confirm the landlords have served the tenants in accordance with this order. If possible, the landlords should provide read receipts confirming the e-mails were opened and viewed by the tenants.

The Order stated that “documents served in this manner have been sufficiently served to the tenants for the purposes of the Act, three days after the date that the e-mails are sent by the landlords to the tenants”.

The landlord testified to sending the documents by email but did not provide proof of service as directed in the Order.

Accordingly, I am unable to conclude the tenant was served as required under the Act and the Order.

I therefore dismiss the landlord's claim with leave to reapply.

Conclusion

For the above reasons, 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: October 18, 2022

Residential Tenancy Branch