



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      **MNRL, MNDL, MNDCL, FFL**

### **Introduction**

This hearing dealt with the Landlord's Application for Dispute Resolution, made on March 9, 2022 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "*Act*"):

- a monetary order for unpaid rent;
- a monetary order for damage, compensation, or loss; and
- an order granting recovery of the filing fee.

The hearing was scheduled for 1:30pm on November 7, 2022 as a teleconference hearing. Only the Landlord's Agent attended the hearing at the appointed date and time. No one appeared for the Tenants. The conference call line remained open and was monitored for 10 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Landlord's Agent and I were the only persons who had called into this teleconference.

At the start of the hearing, the Landlord's Agent confirmed that they did not serve the Tenants with the Notice of Hearing or their documentary evidence prior to the hearing. The Landlord's Agent stated that the Tenants did not provide their forwarding address at the end of the tenancy.

### **Preliminary Matters**

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

*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 document]...*

Section 89(1) of the Act provides guidance for parties with regards to service of certain documents including an Application for Dispute Resolution and the Notice of Hearing. The Notice must be given in one of the following ways; by leaving a copy with the Tenant (personal service); or, by sending a copy by registered mail to the address at which the Tenant resides.

As the Landlord's Agent did not serve the Notice of Hearing, and the Tenants did not appear at the time of the hearing, I find that the Landlord's Application is dismissed with leave to reapply. This does not extend any time limits set out in the Act.

Should personal service not be achievable, an application for substituted service may be made at the time of filing the application for dispute resolution or at a time after filing.

In these cases, the party applying for substituted service must be able to demonstrate two things:

- that the party to be served cannot be served by any of the methods permitted under the Legislation, and
- that there is a reasonable expectation that the party being served will receive the documents by the method requested.

It shall also be noted that according to Section 39 of the *Act*, a landlord may retain the security deposit if a tenant does not give a landlord a forwarding address in writing within one year after the end of the tenancy, the landlord may keep the security deposit or the pet damage deposit, or both, and the right of the tenant to the return of the security deposit or pet damage deposit is extinguished.

### Conclusion

The Landlord did not serve the Tenants with the Application and documentary evidence package. As such, the Landlords' 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: November 07, 2022

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Residential Tenancy Branch