



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNRL-S, FFL

### Introduction

The Landlords seek the following relief under the *Residential Tenancy Act* (the “Act”):

- an order pursuant to ss. 67 and 38 for unpaid rent by claiming against the security deposit; and
- return of their filing fee pursuant to s. 72.

S.B. and M.B. appeared as the Landlords. The Tenant did not attend, nor did someone attend on their behalf.

The Landlords affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

At the outset of the hearing, I canvassed how and when the Landlords served the Tenant with the Notice of Dispute Resolution and their evidence. I was advised by S.B. that the application materials were left at the Tenant’s door sometime after March 22, 2022, which is when the Notice of Dispute Resolution was provided to the Landlords by the Residential Tenancy Branch, and March 25, 2022, which is when the Notice of Dispute Resolution is supposed to be served as per Rule 3.1 of the Rules of Procedure.

S.B. further testified that the address the documents were left were the Tenant’s forwarding address, which she says was provided by the Tenant on March 14, 2022. I am told that the Landlords texted the Tenant to advise them that the documents were left at the door.

Section 89 of the *Act* sets out the methods of service for application materials in dispute resolution proceedings. Specifically, s. 89(1) applies under the circumstances, which states the following:

- 89** (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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 documents];
  - (f) by any other means of service provided for in the regulations.

In the present instance, the Landlords utilised a method of service that is not permitted under s. 89(1) of the *Act*, namely by leaving their application materials at the door. Such a method may be permitted under s. 88 or 89(2) of the *Act*, but not for general applications as is the case here. Further, I have not been provided proof of service or any other documentary evidence confirming that service has been undertaken at all.

Rule 3.5 of the Rules of Procedure requires applicants to be prepared to demonstrate service of their application materials at the hearing. I find that under the circumstances the Landlords failed to demonstrate service of the application materials in accordance with the *Act*. Policy Guideline #12 provides guidance with respect to the service provisions of the *Act* and specifies that failure to serve the named respondents in a method approved by the *Act* may result in the matter being adjourned, or dismissed with or without leave to reapply.

Under the circumstances, I believe the appropriate course is to dismiss the application with leave to reapply. Outside the issue of service, there is another issue pertaining to the naming of the Tenant, which is an individual rather than the corporate entity listed in the tenancy agreement. S.B. testified that the individual named is the principal of the corporate entity, however, I have no documentary evidence to confirm this point nor was

the Tenant or its agent present to confirm this. I believe under the circumstances the best course is for the Landlords to reapply to correct the issue and would caution the Landlords ensure the parties are properly named after reviewing Policy Guideline #43.

The Landlords application is dismissed with leave to reapply, except for their claim for the return of their filing fee, which is dismissed without leave to reapply. This dismissal does not extend any time limitation that may apply under the *Act*.

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 16, 2022

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Residential Tenancy Branch