



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on April 22, 2022 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage or compensation;
- a monetary order for unpaid rent;
- an order granting recovery of the filing fee; and
- to retain the security deposit.

The hearing was scheduled for 1:30PM on January 23, 2022 as a teleconference hearing. The Landlord 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 and I were the only persons who had called into this teleconference.

The Landlord stated that he served the Tenants with the Notice of Hearing by email on May 18, 2022. The Landlord did not provide proof of service. The Landlord stated that they were not able to serve the Tenants with the Notice of Hearing any other way as they were not provided with the Tenants' forwarding address.

I note that the Landlord submitted an application for substituted service. On May 18, 2022 an adjudicator denied the landlord's application to serve the Tenants by email.

Preliminary Issues

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

In this case, I find that the Landlord did not serve the Tenants with the Notice of Hearing in accordance with Section 89 of the Act. I find that the Landlord was not successful with their application for substituted service. As no one attended the hearing for the Tenants, I find that the Landlord's 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: January 23, 2023

Residential Tenancy Branch