



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **MNRL-S FFL**

Introduction

This hearing was convened as a result of the Landlord's application for dispute resolution ("Application") under the *Residential Tenancy Act* (the "Act"). The Landlord seeks:

- a monetary order for unpaid rent pursuant to section 67;
- authorization to keep the Tenant's security deposit under section 38; and
- authorization to recover the filing fee for the Application from the Tenant.

The Tenant did not attend this hearing scheduled for 1:30 pm. I left the teleconference hearing connection open for the entire hearing, which ended at 1:43 pm, in order to enable the Tenant to call into this teleconference hearing. The Landlord attended the hearing and he was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes were provided in the Notice of Dispute Resolution Proceeding ("NDRP"). I also confirmed from the teleconference system that the Landlord and I were the only ones who had called into this teleconference.

Preliminary Matter – Service of Notice Dispute Resolution Proceeding on Tenant

The Landlord stated he serve the NDRP and his evidence on the Tenant by email. The Landlord acknowledged he applied to the Residential Tenancy Branch for an order for substituted service to allow him to serve the Tenant by email, but the application was dismissed.

Section 59 of the Act requires that an applicant serve the respondent with the proceeding package within three days of receiving the proceeding package from the Residential Tenancy Branch and section 89(1) sets out the tenant's required

methods of service. Where a respondent does not appear for the hearing, the applicant bears the burden to prove service occurred in a manner that complies with the Act.

Section 89(1)(f) permits service of an Application for Dispute Resolution by “any other means of service provided for in the regulations.”.

Section 43 of the Regulations states:

- 43(2) For the purposes of section 89 (1) (f) *[special rules for certain documents]* of the Act, the documents described in section 89 (1) of the Act may be given to a person by *emailing a copy to an email address provided as an address for service by the person.*

[emphasis in italics added]

In keeping with section 89(1)(f) of the Act and section 43(2) of the Regulations, *Residential Tenancy Branch Policy Guideline 12* states under *Service provisions* on page 4:

Email service

- To serve documents by email, *the party being served must have provided an email address specifically for the purposes of being served documents. If there is any doubt* about whether an email address has been given for the purposes of giving or serving documents, *an alternate form of service should be used, or an order for substituted service obtained.*

[emphasis in italics added]

The Landlord’s application for substituted service by email was dismissed by the adjudicator who reviewed it. As such, I am not satisfied that the service requirements of section 89(1) of the Act were met and I decline to hear the Application. Based on the foregoing, I dismiss the Application with leave to reapply. The Landlord may call the Contact Centre of the RTB to obtain further information including alternative methods of service that may be sought in an application for substituted service.

This decision does not extend any deadlines for making applications for dispute resolution imposed 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: March 6, 2023

Residential Tenancy Branch