



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding G AND M TOTOS HOLDINGS LTD. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNRL-S, MNDL-S, FFL

### Introduction

This hearing was scheduled to convene at 1:30 p.m. on May 11, 2023 concerning an application made by the landlord seeking the following relief:

- a monetary order for unpaid rent or utilities;
- a monetary order for damage to the rental unit or property;
- an order permitting the landlord to keep all or part of the security deposit or pet damage deposit; and
- to recover the filing fee from the tenants for the cost of the application.

An agent for the landlord attended the hearing, however the line remained open while the telephone system was monitored for in excess of 15 minutes and no one for the tenants joined the call.

The landlord's agent indicated that the tenants were served by registered mail on November 10, 2022, and has provided copies of 2 Canada Post Registered Domestic Customer Receipts as well as 2 Canada Post tracking documents, both of which indicate that the registered mail packages were returned to the sender. The landlord's agent also indicated that the documents were sent to the tenants by email, and that at a previous hearing it was determined to be sufficient service.

I have reviewed the Decision of the previous hearing, dated January 20, 2023 and it states that service by email can only be effected if the tenants provided an email address as an address for service by the person. The Decision also states that since the tenant "JM" advised that the documents were received, the landlord's evidence should be accepted as evidence for that hearing, but not for the other tenant, "TM."

The Decision of January 20, 2023 also states that the landlord's application for an Order of Possession was withdrawn because the rental unit had been vacated, and that the tenant "TM" vacated the rental unit on October 15, 2022, and therefore the Arbitrator could not conclude that the tenant "TM" had been served in accordance with the Act.

Considering that the tenants vacated the rental unit on October 15, 2022, I cannot conclude that the tenants were served with this application in accordance with the *Act* because the documents were sent to an address that the tenants did not reside at, at the time of service.

The Decision of January 20, 2023 also states that the landlord was successful in obtaining a monetary order for the unpaid rent and were permitted to keep the security deposit. Therefore, I dismiss those applications without leave to reapply.

With respect to the landlord's claim for damages, I dismiss that portion with leave to reapply.

### Conclusion

For the reasons set out above, the landlord's application for a monetary order for unpaid rent or utilities is hereby dismissed without leave to reapply.

The landlord's application for an order permitting the landlord to keep the security deposit is dismissed without leave to reapply.

The landlord's application for a monetary order for damage to the rental unit or property is hereby 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: May 11, 2023

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Residential Tenancy Branch