



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

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

### **Introduction**

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act (“Act”) for orders as follows:

- for a monetary order for unpaid rent pursuant to section 67 of the Act
- for a monetary order for damages pursuant to section 67 of the Act
- for reimbursement of the filing fee pursuant to section 72 of the Act

The landlord wishes to retain the security deposit as partial compensation.

Landlord’s counsel MM and tenant SB appeared. All parties were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses.

The hearing was conducted by conference call. The parties were reminded to not record the hearing pursuant to Rule of Procedure 6.11.

The landlord’ counsel advised that he provided the RTB with his evidence on June 12, 2023, three days prior to the hearing. The landlord was granted an order of substitutional service on December 15, 2022, allowing him to serve the tenant by email. The landlord provided proof of service on the tenant, by providing a copy of the email that was sent to the tenants and shows the attachments included in the email. The landlord served the tenant by email on May 25, 2023 based on the order for substitutional service.

RTB Rules of Procedure Rule 3.1 states:

The applicant must, within three days of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute Resolution;
- b) the Respondent Instructions for Dispute Resolution;
- c) the dispute resolution process fact sheet (RTB-114) or direct request process fact sheet (RTB-130) provided by the Residential Tenancy Branch; and
- d) any other evidence submitted to the Residential Tenancy Branch directly or through a Service BC Office with the Application for Dispute Resolution, in accordance with Rule 2.5 [*Documents that must be submitted with an Application for Dispute Resolution*].

The applicant landlord stated through counsel that he did not serve the tenants until May 25, 2023, almost five months after receiving the order, because the counsel was not retained prior to that date.

Further, the landlord produced evidence that does not appear to have been served on the tenants. The landlord confirmed in the hearing that a move out inspection report that the landlord is relying on was not served on the tenants.

Based on Rule 3.1 of the RTB Rules of Procedure, I find that the tenants were not served with either the dispute notice or evidence package in a timely fashion according to the Rules. Therefore, I am dismissing the landlord's application with leave to reapply.

### Conclusion

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: June 15, 2023

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Residential Tenancy Branch