



## **DECISION**

Dispute Codes      MNRL-S, MNDL-S, FFL

### **Introduction**

This hearing was scheduled to convene at 1:30 p.m. on February 8, 2024 concerning an application made by the landlord seeking 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.

The landlord and the landlord's spouse attended the hearing, with Legal Counsel who gave oral submissions. 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 Legal Counsel submitted that the tenants were individually served with the Notice of Dispute Resolution Proceeding and all other required documents by registered mail on September 21, 2023 and orally provided tracking numbers.

Legal Counsel also submitted that the tenants did not attend for the move-out condition inspection, but an agent for the tenants attended and wrote the tenants' forwarding address on that form simply states: "lawyers address." Legal Counsel for the landlord had corresponded with a lawyer for the tenants, who indicated that he/she did not know that the tenants' agent wrote that on the condition inspection report, and he/she had no instructions in that regard.

The *Residential Tenancy Act* specifies how a Notice of Dispute Resolution Proceeding must be served:

**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.

I find that the forwarding address provided by the tenants' agent on the condition inspection report is not an address at all.

Since the landlord has not served the tenants to a forwarding address provided by the tenants in accordance with the *Act*, I dismiss the landlord's application with leave to reapply.

### Conclusion

For the reasons set out above, the landlord's application 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: February 10, 2024

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Residential Tenancy Branch