



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDCL, FFL;    MNDCT, FFT

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for his application, pursuant to section 72.

This hearing also dealt with the tenants' application pursuant to the *Act* for:

- a monetary order for damage or loss under the *Act*, *Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for their application, pursuant to section 72.

The landlord did not attend this hearing, which lasted approximately 20 minutes. The two tenants attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

This hearing began at 1:30 p.m. and ended at 1:50 p.m. I confirmed that the correct call-in numbers and participant codes had been provided in the landlord's Notice of Hearing. I also confirmed from the teleconference system that the tenants and I were the only people who called into this teleconference.

The tenants confirmed receipt of the landlord's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the tenants were duly served with the landlord's application.

The tenants were provided with 20 minutes during the hearing to find service information. I repeated the tenant's file number, the date of their application filing and the date of their notice of hearing, multiple times to them, during the hearing. The tenants were unable to provide a date or method of service for how and when their application for dispute resolution hearing package was served to the landlord.

Accordingly, I find that the landlord was not served with the tenants' application, as required by section 89 of the *Act*. I notified the tenants that their application was dismissed with leave to reapply, except for the \$100.00 filing fee. The tenants confirmed their understanding of same.

#### Preliminary Issue – Dismissal of Landlord's Application

Rule 7.3 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* provides as follows:

*7.3 Consequences of not attending the hearing: If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.*

In the absence of any appearance by the landlord, I order the landlord's entire application dismissed without leave to reapply.

The original RTB hearing regarding the landlord's application was held on April 27, 2020, after which a decision was issued on the same date by a different Arbitrator. The landlord's application was dismissed without leave to reapply because the landlord failed to appear at that hearing and the tenants attended.

The landlord filed a review of that decision, alleging he was unable to attend that hearing, which was granted by a different Arbitrator in a decision, dated May 19, 2020. Both parties attended a review hearing for the landlord's application on June 18, 2020, after which a decision was issued on the same date by a different Arbitrator. The landlord asked at that review hearing that his matter be adjourned to August 25, 2020 and the Arbitrator granted his request, as noted at page 1 of that decision.

Therefore, the landlord was aware of this hearing date, as he asked that his matter be adjourned to August 25, 2020.

Section 79(7) of the *Act*, states that a party may only apply once for a review consideration:

*(7) A party to a dispute resolution proceeding may make an application under this section only once in respect of the proceedings.*

The landlord has already applied once for a review of his application, as noted above. This hearing on August 27, 2020 was the review hearing for the landlord's application.

### Conclusion

The tenants' application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The tenants' application for a monetary order for damage or loss under the *Act*, *Regulation* or tenancy agreement is dismissed with leave to reapply.

The landlord's entire application is dismissed without 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: August 25, 2020

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Residential Tenancy Branch