



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDCL-S, FFL

### Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for:

- a monetary order for loss under the Act, the regulation or tenancy agreement, pursuant to section 67;
- an authorization to retain the tenants' security deposit in satisfaction of the monetary order requested, pursuant to section 72; and
- an authorization to recover the filing fee for this application, under section 72.

I left the teleconference connection open until 2:17 P.M. to enable the tenants to call into this teleconference hearing scheduled for 1:30 P.M. The tenants did not attend the hearing. The landlord, represented by counsel TC (the landlord), attended the hearing and 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 had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord testified the tenants did not provide a forwarding address in writing. After unsuccessfully sending registered mail to an address for the tenants provided by the property manager in November 2020, the landlord applied for an order of substitute service.

In a decision dated December 11, 2020 the landlord was granted substitute service by email for JH but not for SH; the application for SH was dismissed with leave to reapply. The landlord did not reapply for substituted service by another method for tenant SH and did not have evidence SH was served the application in accordance with section 89(1) of the Act.

It is insufficient to serve one tenant when two are named as respondents. Residential Tenancy Branch Policy Guideline 12 states both respondents must be served separately:

All parties named on an application for dispute resolution must be served notice of

proceedings, including any supporting documents submitted with the application. **Where more than one party is named on an application for dispute resolution, each party must be served separately. Failure to serve documents in a way recognized by the Legislation may result in the application being adjourned, dismissed with leave to reapply, or dismissed without leave to reapply.**

**[emphasis added]**

Rule of Procedure 3.5 states:

3.5 Proof of service required at the dispute resolution hearing

At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure.

I am not satisfied the landlord served tenant SH in accordance with section 89(1) of the Act.

As such, I dismiss the landlord's application for a monetary order with leave to reapply.

As the landlord was not successful in this application, I find that the landlord is not entitled to recover the \$100.00 filing fee paid for this application.

### Conclusion

I dismiss the landlord's application for a monetary order with leave to reapply.

I dismiss the landlord's application to recover the filing fee 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: March 22, 2021

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Residential Tenancy Branch