



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDCT, RR, OLC, FFT

### Introduction, Preliminary and Procedural Matters-

This hearing convened as the result of the landlord's successful Application for Review Consideration.

This dispute began as a result of the tenants' application for dispute resolution seeking remedy under the Residential Tenancy Act (Act) for:

- compensation for a monetary loss or other money owed
- a reduction in monthly rent;
- an order requiring the landlord to comply with the Act, regulations, or tenancy agreement; and
- to recover the cost of the filing fee.

On January 18, 2022, an arbitrator conducted the original hearing. At this hearing the tenants attended, and the landlords did not. The original arbitrator granted the tenants' application and issued them a monetary order in the amount of \$1,269.82.

The landlord filed the Application for Review Consideration which resulted in a Decision by another arbitrator with the Residential Tenancy Branch (RTB), on February 7, 2022, granting the landlords a new hearing on the tenants' application for dispute resolution. That Decision is incorporated herein by reference and should be read in conjunction with this decision.

Under section 82(3), following this new hearing, I may confirm, vary, or set aside the original Decision and order.

At this new hearing, the tenant HT attended and was ready to proceed. However, neither landlord nor any agent/representative attended, despite their successful Application for Review Consideration.

In the review consideration Decision of February 7, 2022, the arbitrator ordered as follows:

*I order that a new hearing of the original Application for Dispute Resolution take place. The decision and Order issued on January 20, 2022 is suspended until that hearing is completed.*

***Notices of the time and date of the hearing will be provided to the Landlord by the Residential Tenancy Branch. These documents must be served to the Tenants within 3 days of receiving the documents. The Landlord must also serve a copy of this Decision to the Tenants. At the new hearing, the Landlord will be required to demonstrate how the documents outlined above have been served to the Tenants.***

The tenant, who was affirmed, testified at the hearing that the landlords did not serve the tenants with the notice of the new hearing or the Review Consideration Decision. The tenant testified that she had kept checking her emails and found nothing relating to the new hearing.

#### Issue(s) to be Decided

Should the original Decision granting the tenants monetary compensation and a monetary order against the landlords, dated January 20, 2022, be confirmed, varied, or set aside?

#### Analysis and Conclusion

Rule 3.5 states that at the hearing, the applicant must be prepared to demonstrate service of the hearing documents to the satisfaction of the arbitrator.

Section 81 (4) of the Act requires that:

*Within 3 days of receiving a decision to proceed with a review, or within a different period specified by the director, the applicant must give the other party a copy of the decision and of any order giving effect to the decision.*

I find that the landlords, who failed to attend the new hearing, or have an agent or representative attend the hearing, or provide documentary evidence for the hearing, provided insufficient evidence that they served the required documents as ordered by the arbitrator in the Decision of February 7, 2022, and the Act, in granting this new hearing. I am therefore satisfied that the landlords failed to comply with the order of the February 7, 2022, Decision granting this new hearing.

As I find the landlords submitted insufficient evidence that they served the required hearing documents to the tenants, I find that the original Decision and the monetary order issued on January 20, 2022, must be confirmed.

On this basis, I **confirm** the original Decision of the arbitrator, dated January 20, 2022, pursuant to section 82(3) of the Act, granting the tenants' application. Therefore, the monetary Order issued on that date remains valid and enforceable.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: April 25, 2022

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Residential Tenancy Branch