



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, FF and O

### Introduction

This application was brought by the tenant on April 12, 2012 seeking a monetary award for damage or loss under the legislation or rental agreement related to non-working appliances and a claim that the landlord failed to maintain the rental unit to required standards.

As a matter of note, the tenancy ended pursuant to an Order of Possession issued following a hearing on April 2, 2012.

When the present hearing convened, I advised the applicant tenant that her 78-pages of evidence, submitted to the branch and placed in the landlord's mail box on Friday, June 1, 2012 was too late to be considered in the hearing.

By way of explanation, under item 3.4 of the Rules of Procedure requires that, to the extent possible, evidence is to be filed at the time of the application.

Rule 3.5 states that evidence not available at the time of the application must be received by the branch and served on the respondent as soon as possible and at least five days in advance of the hearing, unless the hearing is scheduled so soon after the application that such service is not possible. As defined in the definitions section of the Rules of Procedure, a calculation of days excludes the first and last day and weekends. Therefore, with the intervening weekend, the tenant's evidence was served only two days in advance of hearing. As the application was made on April 12, 2012 and as a cursory review of the evidence indicates that all or most of it would have been available at that time, I find that the tenant had due opportunity to submit her evidence on time.

Rule 11.5(b) directs that a request for acceptance of late evidence may be refused if acceptance of it would prejudice the other party.

In the present matter, the respondent landlord speaks English as a second language. In order to interpret the volume and technical nature of the tenant's evidence would have required some study on his part and possibly the assistance of another party. In addition, while the tenant placed the evidence in his mail box on June 1, 2012, the landlord stated he had been away for the weekend and did not see the package until June 4, 2012.

For those reasons, I declined to accept the tenant's evidence.

Consequently, the tenant withdrew the application.

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 06, 2012.

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Residential Tenancy Branch