



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Palomar Synergy  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDC, OLC, FF

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking a monetary order and an order to have the landlord comply with the *Residential Tenancy Act (Act)*, regulation or tenancy agreement.

The hearing was conducted via teleconference and was attended by the tenant and her two witnesses and two agents for the landlord. The tenant had two witnesses available however neither one was called to provide testimony at this hearing.

At the outset of the hearing the landlords submitted that they had received two evidence packages from the tenant: one dated February 26 2014 and one dated March 3, 2014. In regard to the March 3, 2014 package the landlords submitted that it was not considered received until March 6 as per the deeming provisions under Section 90 of the *Act*. The landlords submit as a result the evidence was late according the Residential Tenancy Branch Rules of Procedure.

The landlords provided further testimony that they had actually received the evidence on March 3, 2014 and as such I find the landlords had received the evidence at least 5 days ahead of the hearing and therefore in compliance with the Rules of Procedure.

Prior to the hearing the landlord provided a written submission seeking to have the tenant's Application dismissed, pursuant to Section 59 as she had failed to provide the full particulars of her claim.

I note that the tenant had indicated in her Application for Dispute Resolution, submitted to the Residential Tenancy Branch on November 21, 2013, that she was seeking compensation in the amount of \$7,160.00 and provided the following explanation under the Details of Dispute on the Application:

1. Damages – right leg fell through rotten boards – June 14, 2013;
2. End of tenancy letter July 15/13 (Oct 30\13 increase from 750.00 (Aug 26/13) to \$850.00 ads enclosed);
3. RM copied Robert's & Katherine's driver's license numbers on paper. Want proof/confirmation still not in RM's and AB's files.

I also note that the full particulars of her claim including the reasons for the claim and the breakdown of the amount of her monetary claim was not submitted until she submitted an additional evidence package to the Residential Tenancy Branch on March 3, 2014.

The landlord requests that leave not be granted to allow the tenant to reapply. The landlord submits that because it such strenuous and time consuming works the tenant should be barred from reapplying.

### Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for compensation for an injury suffered on the rental property; for compensation for the landlord failing to use the property for the stated purpose and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 32, 51, 67, and 72 of the *Act*.

### Analysis

Section 59(2) states of the *Act* that an Application for Dispute Resolution must include full particulars of the dispute that is to be the subject of the dispute resolution proceedings. Section 59(5) allows that I may refuse an Application for Dispute Resolution if it does not comply with Section 59(2).

Residential Tenancy Branch Rules of Procedure outline in Rule 3.1 that:

“together with the Application for Dispute Resolution, the applicant must serve each respondent with copies of the following:

- a) The notice of dispute resolution proceeding letter provided to the applicant by the Residential Tenancy Branch;
- b) The dispute resolution proceeding information package provided by the Residential Tenancy Branch;
- c) **The details of any monetary claim being made;** and
- d) Any other evidence accepted by the Residential Tenancy Branch with the application or that is available to be served.” [emphasis added]

I accept that the applicant tenant failed to provide the respondent landlord with details of the dispute sufficient to ascertain what the tenant was claim compensation for and with any details of the monetary claim at all until 1 week prior to the hearing and not at the time she served the landlord with a copy of the Application for Dispute Resolution; the Notice of Dispute Resolution Proceeding letter; and the dispute resolution information package.

As such, I find the tenant has failed to comply with the requirements of both Section 59(2) and the Rule of Procedure 3.1. In addition, I find that failure to comply with these requirements is contrary to the principles of natural justice and fairness.

As I have not heard the merits of this Application and since I have dismissed it without consideration of the actual claim itself, I find that it would be prejudicial to the tenant to dismiss without leave to reapply because she was unfamiliar with procedural requirements.

### Conclusion

For the above noted reasons, I dismiss this Application 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: March 11, 2014

---

Residential Tenancy Branch

