



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

**MNDC, MNSD, ERP, RP, LRE, LAT, AS, RR**

### Introduction

This hearing was scheduled in response to the tenants Application for Dispute Resolution, in which the tenant has requested compensation for the cost of emergency repairs and damage or loss under the Act in the sum of \$1,800.00; an Order the landlord make emergency repairs and repairs, that conditions be set on the landlord's right to enter the rental unit, that the tenant be allowed to change the locks to the rental unit and to reduce rent for repairs, services or facilities agreed upon and not provided.

Both parties were present at the hearing. The landlord attended at the scheduled start time; the tenant entered 7 minutes after the hearing was to commence. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were affirmed.

### Preliminary Matters

The tenant said that with the hearing documents that the landlord confirmed he received on October 31, 2014, the tenant had included a flash drive that contained his evidence. The landlord said that he did not receive any evidence with the hearing documents.

Rule 3.1 requires that the format of digital evidence be accessible to all parties. Before the hearing, the party submitting the digital evidence must determine that the other party and the Residential Tenancy Branch have playback equipment or are otherwise able to gain access to the evidence. If a party asks another party about their ability to gain access to a particular format, device or platform, the other party must reply as soon as possible and in any event so that all parties have 7 days with full access to the evidence. The tenant confirmed that he made no effort to contact the landlord, to ensure he had been able to access the digital evidence. If he done so he would have established that the landlord did not have the evidence.

There was no evidence before me that the landlord had received digital evidence and, in the absence of any effort made by the tenant to ensure the landlord had accessed digital evidence, I determined, on the balance of probabilities, that the landlord had not received that evidence.

Further, the tenant did not make any evidence submission at the time his application was submitted to the RTB. Section 2.5 of the Rules require an applicant to submit copies of digital and other evidence, to the extent possible, at the same time the application is submitted. On November 7, 2014 the tenant supplied the RTB with thirteen pages of evidence; sent by facsimile. This is the only evidence apparent on the tenant's file. The tenant delayed the evidence submission given to the RTB until 5 days prior to the hearing. This evidence was not in the same format as that the tenant said he gave to the landlord.

The tenant said he was told by RTB staff that he could request an adjournment, to allow service of evidence. I explained that a party may not request an adjournment to allow more time to prepare for a hearing. It is expected that a party is, to the extent possible, fully prepared at the time they make their application, by submitting and serving their evidence at the time they apply and serve the hearing documents to the other party. Only evidence that is new and relevant, as determined by the arbitrator, will be considered after the application is submitted. In this case an adjournment would have been based on the tenant's failure to fully prepare for the hearing and, while I do not find this was an intentional error, I determined that an adjournment would not be granted.

The tenant then decided to withdraw his application.

### Conclusion

The tenant withdrew his application and has leave to reapply within the legislated time-frame.

This decision is final and binding and 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: November 14, 2014

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Residential Tenancy Branch

