



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction and Preliminary Matter

This hearing convened as a result of a Tenant's Application for Dispute Resolution wherein the Tenant sought return of the security deposit and recovery of the filing fee.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

The Landlord testified that the Tenant did not provide him with the Tenant's Application for Dispute Resolution, Notice of Dispute Resolution Hearing, or evidence until he received it the day before the hearing, namely June 9, 2015.

The Tenant made his application on November 5, 2014. The Tenant confirmed that the materials were not sent to the Landlord until the end of May, 2015.

*Residential Tenancy Branch Rules of Procedure* **Rule 3 – Serving the Application and Submitting and Exchanging Evidence** provides as follows:

### **31. Documents that must be served**

The applicant must, within 3 days of the hearing package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the application for dispute resolution;

- b) the notice of dispute resolution proceeding letter provided to the applicant by the Residential Tenancy Branch;
- c) the dispute resolution proceeding information package provided by the Residential Tenancy Branch;
- d) a detailed calculation for any monetary claim being made;
- e) a copy of the Notice to End Tenancy, if the applicant seeks an order of possession or to cancel a Notice to End Tenancy; and
- f) any other evidence, including evidence submitted to the Residential Tenancy Branch with the application for dispute resolution, in accordance with Rule 2.5 [*Documents that must be submitted with an application for dispute resolution*].

The Landlord testified that the letter submitted by the Tenant in evidence, which was dated September 30, 2014 and purported to provide the Landlord with the Tenant's forwarding address, was never received.

The Landlord further testified that the Tenant blacked out his address for service on the Tenant's Application for Dispute Resolution such that the Landlord was not able to provide response materials to the Tenant.

The Tenant confirmed that the application package had not been sent to the Landlord until late in May 2015 and that the Tenant's address had been blacked out. The Tenant confirmed that the address on the registered mail package, which was sent in late May 2015, was not his forwarding address.

Rule 3.1 ensures parties are given timely notice of proceedings and to ensure a respondent is given an opportunity to respond to the claim made against them. The Tenant filed in November of 2011, yet waited six months to serve the Landlord. This is not permitted under the *Rules*. Further, by blacking out the Tenant's address, the Landlord was precluded from providing his response materials.

Additionally, the Tenant's evidence was not received by the Residential Tenancy Branch until May 28, 2015. Rule 3.14 of the *Rules* provides that documentary and digital evidence that is intended to be relied on at the hearing must be received by the respondent and the Branch not less than 14 days before the hearing. The Tenant failed to do so and instead submitted his evidence late.

During the hearing I advised the parties that as the Tenant did not abide by Rule 3.1, the Tenant's Application for Dispute Resolution was dismissed with leave to reapply.

The Tenant confirmed that the return address on the registered mail package was not their forwarding address. The Tenant stated they would send a forwarding address to the Landlord by regular mail, once they had an address to provide.

### Conclusion

The Tenant did not serve the Landlord in accordance with Rule 3.1 and 3.14. Further the Tenant did not provide the Landlord with an address for delivery thereby preventing the Landlord from responding. The Tenant's application is dismissed 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: June 10, 2015

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Residential Tenancy Branch

