



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes            MND MNSD FF

### Introduction, Background and Evidence

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed by the Landlord on July 19, 2016. The Landlord filed seeking a \$1,946.70 Monetary Order and to recover the cost of the filing fee.

The hearing was conducted via teleconference and was attended by the Landlord and the Tenant. I heard the Landlord state she filed her application for Dispute Resolution at which time she submitted photographs. She stated she was told to complete a Monetary Order Worksheet and she thought she had left it with the staff at the Residential Tenancy Branch (RTB). No Monetary Order Worksheet was received on file at the time of this hearing.

The Landlord stated she had submitted additional evidence to the RTB via fax on January 18, 2016. That late evidence had not been received on the file at the time of this hearing. The electronic RTB record indicating there were two faxes received from the Landlord on January 20, 2014, four days before this hearing. I heard the Tenant state that they were currently out of the Country so he had not received any documents from the Landlord in January 2017.

### Analysis

Under section 59 of the Act, an applicant is required to provide full particulars as to the nature of their claim. This requirement is in keeping with the principles of natural justice which provide that a respondent has the right to be put on notice as to the claims being made against them so that they may provide a proper response or defense. This requirement to provide full particulars would include a detailed calculation or explanation that is sufficiently detailed so that the party being served is able to understand what the amount includes and how it was calculated.

At the time of filing on July 19, 2016 the Landlord claimed \$1,946.70 compensation. From her own submission the Landlord was asked by the RTB staff to complete a Monetary Order Worksheet; however, there is no record of a completed Monetary Order Worksheet ever being received on this file.

Section 59(2) of the Act stipulates that an application for dispute resolution must be in the applicable approved form; include full particulars of the dispute that is to be the subject of the dispute resolution proceedings; and be accompanied by the fee prescribed in the regulations.

Section 59(5)(c) provides that the director may refuse to accept an application for dispute resolution if the application does not comply with subsection (2).

The Residential Tenancy Branch Rules of Procedure (Rules of Procedure) 2.5 stipulates that to the extent possible, at the same time as the application is submitted to the Residential Tenancy Branch, the applicant must submit to the Residential Tenancy Branch: a detailed calculation of any monetary claim being made; 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 copies of all other documentary and digital evidence to be relied on at the hearing.

***The only exception is when an application is subject to a time constraint***, such as an application under *Residential Tenancy Act* section 38, 54 or 56 or an application under the *Manufactured Home Park Tenancy Act* section 47 or 49 [my emphasis added].

The Rule of Procedure 3.14 provides that all documentary and digital evidence that is intended to be relied on at the hearing must be received by the respondent and the RTB not less than 14 days before the hearing.

After careful consideration of the foregoing, in absence of a clear description of the details of the Landlord's claim, and considering the Landlord's late evidence was not submitted in accordance with the Rules of Procedure, I declined to hear the Landlord's application, pursuant to section 59(5)(c) of the *Act*. As no findings of fact or law were made regarding the merits of this application, the Landlord is at liberty to file another application for Dispute Resolution, if she wishes to pursue her claim. This liberty does not extend any applicable timeframes set out in the *Act*.

### Conclusion

In the absence of clear details of the dispute, I declined to hear the Landlord's application as outlined above.

This decision is final, legally 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: January 24, 2017

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Residential Tenancy Branch