



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MND MNDC

### Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) by the landlord seeking remedy under the *Residential Tenancy Act* (the “Act”) for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and for damages to the rental unit, site or property.

The landlord attended the teleconference. The landlord was affirmed and the hearing process was explained to the landlord, and an opportunity to ask questions about the hearing process was provided to the landlord.

### Preliminary and Procedural Matters

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the “Notice of Hearing”), the Application for Dispute Resolution (the “Application”) and documentary evidence were considered. The landlord stated that she did not have her paperwork in front of her during the hearing as she was calling into the hearing from Europe. As the landlord was unable to speak to the Affidavit of Service document (the “Affidavit”) submitted in evidence, the landlord was advised that the Affidavit was signed by a private detective who claims to have served the tenant with the Monetary Order Worksheet document RTB #37 (the “monetary order worksheet”) on August 21, 2016 at 11:55 a.m. I find that this information could not be correct as the monetary order worksheet submitted in evidence on January 17, 2017 was actually dated January 16, 2017 and could not have been served in August 2016. As a result, I am not satisfied that the tenant was sufficiently served due to the inconsistent documents before me.

Both parties have the right to a fair hearing. The tenant would not be aware of the hearing without having been served with the Notice of Hearing, Application and documentary evidence including the monetary order worksheet.

In addition to the service issues described above, the tenant was advised that their entire application was being refused, pursuant to section 59(5)(c) of the *Residential Tenancy Act (Act)*, as their application for dispute resolution did not provide sufficient particulars as is required by section 59(2)(b) of the *Act*. In reaching this decision, I have considered that the landlord's Application has conflicting amounts for "materials" and "labour" costs which do not match the monetary order worksheet.

As a result, the landlord is at liberty to re-apply as a result, however the landlord is likely now beyond the two year time limit to apply for dispute resolution pursuant to section 60 of the *Act*. While I make no finding in that regard as I did not hear the merits of this dispute, I note that this decision does not extend any applicable timelines such as the timeline defined in section 60 of the *Act*.

Furthermore, when seeking monetary compensation, the applicant is encouraged to ensure that the monetary order worksheet matches the Application amount being claimed and is consistent throughout with all pages numbered.

Finally, on the landlord's Application, the landlord's first name and surname had been reversed in error although the tenant's name had not. As a result, I have corrected the error so that the proper name of the landlord has been reflected in this decision.

### Conclusion

The landlord's application is dismissed with leave to reapply due to a service issue and has been refused pursuant to section 59(5)(c) and 59(2)(b) of the *Act*.

I make no findings on the merits of the landlord's application. The landlord is at liberty to reapply. This decision does not extend any applicable time limits under the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, 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: February 16, 2017

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Residential Tenancy Branch

