



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDL-S, FFL

### Introduction

On August 14, 2018, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting a Monetary Order for damages, to apply the security deposit against the claim, and to recover the cost of the filing fee. The matter was set for a participatory hearing via conference call.

### Preliminary Matters

The Landlord and Tenant attended the hearing and provided affirmed testimony. They were provided the opportunity to present their relevant oral, written and documentary evidence and to make submissions at the hearing. The Landlord testified that they sent the Notice of Hearing and evidence package to the Tenant; however, were unable to provide the details of when they sent the package. The Tenant stated that he did not receive an evidence package from the Landlord. I find that the Landlord failed to provide sufficient evidence that the Tenant was served the evidence package in accordance with Section 89 of the Act. I find the Landlord’s evidence is inadmissible.

The Tenant stated he served his evidence package to the Landlord’s via regular mail on December 5, 2018. Rule of Procedure 3.15 states that evidence that is intended to be relied on by the Respondent (Tenant) at the hearing are served on the Applicant (Landlord) and submitted to the Residential Tenancy Branch as soon as possible. In all events, the Respondent’s evidence must be received by the Applicant and the Residential Tenancy Branch not less than 7 days before the hearing. I find the Tenant’s evidence was submitted late and is inadmissible.

As the evidence submitted by both parties was deemed inadmissible, the parties still agreed to proceed with the hearing. Early in the hearing, it was evident that the terms of

the tenancy, condition inspection reports and full particulars of the claim were in contention, and the relevant documents had not been submitted or were deemed inadmissible.

Rules of Procedure 2.5 state, to the extent possible, the Applicant should submit the following documents at the same time as the Application is submitted including: a detailed calculation of any monetary claim being made; and, copies of all other documentary and digital evidence to be relied on in the proceeding.

I find that the Landlord has failed to submit the documents necessary to proceed with this hearing. This, along with the finding that the parties did not exchange evidence have led me to dismiss this Application with leave to reapply.

During the hearing, the Tenant confirmed and provided his forwarding address to the Landlord. The Landlord has 15 days after receiving this Decision to return the security deposit or make an Application for Dispute Resolution.

### Conclusion

The Landlord'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: December 13, 2018

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Residential Tenancy Branch