



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDCT

### Introduction

This hearing dealt with a tenant's application for a Monetary Order for damages or loss under the Act, regulations or tenancy agreement. Both parties appeared or were represented at the hearing and had the opportunity to make relevant submissions and to respond to the submissions of the other party pursuant to the Rules of Procedure.

At the outset of the hearing, I explored service of hearing documents upon the parties. The tenant testified that she served her hearing package to the landlord via registered mail. The tenant testified that she gathered her evidence together and served the landlord with an evidence package on March 31, 2019, in person. The landlord mailed a written response to the tenant at her new address.

I noted that the amount claimed on the tenant's Application was a total of \$1,650.00 and accompanied by details of dispute that indicated the tenant was seeking compensation equivalent to 25% of her rent for the months of September through January; however, the tenant also uploaded a document she had called "Breakdown" at the time of filing which was a letter dated January 14, 2019 and indicated the tenant had been seeking compensation of \$1,575.67. I asked the tenant to clarify the amount she was seeking and how she calculated it. The tenant indicated she had difficulty determining the amount she was seeking and that she "rounded up" to \$1,650.00. The tenant stated twice that she was seeking \$1,650.00 from the landlord.

The landlord testified that she did not receive the "Breakdown" with the hearing package or the tenant's evidence package and the landlord did not know how the tenant arrived at a claim of \$1,650.00 based on the details of dispute that were provided on the Application. The rent for the unit was \$1,070.00 at the relevant time and 25% of the rent for five months equals \$1,337.50.

The landlord acknowledged that she had received a letter from the tenant dated January 14, 2019 prior to the tenant serving her with the hearing package but she did not know the tenant intended to rely upon that letter in making her claim for \$1,650.00.

The tenant stated that she “possibly” included the “Breakdown” document in the package delivered to the landlord on March 31, 2019 but she was not certain.

Under section 59 of the Act, an applicant must provide full particulars of their claim. Rules 2.5 and 3.1 of the Rules of Procedure also require an applicant to provide a detailed monetary calculation to the Residential Tenancy Branch and to the respondent. Under rule 3.7, an applicant must provide clear and organized evidence and give an identical copy to the respondent. These requirements are in keeping with the principals of natural justice.

I find the tenant did not sufficiently set out how she arrived at the amount claimed and serve the calculation upon the landlord. Nor, did she submit a calculation to the Residential Tenancy Branch that supports the amount claimed. I also noted that the tenant’s submission was not organized, or include page numbers and a table of contents. The landlord stated that she was provided photocopies of photographs and I noted that I was provided digitally uploaded photographs that were in colour. If a party provides colour photographs to the Residential Tenancy Branch for consideration, the same quality evidence must be served upon the respondent. In these circumstances, I found that it would be unfair to proceed to hear this case and I informed the as such.

I offered to help facilitate a settlement agreement between the parties in the hearing time that remained. The parties indicated a willingness to explore a settlement and they made offers and counter-offers to each other; however, the parties were unable reach an agreement.

Without a settlement agreement reached, I informed the parties that I would be dismissing the tenant’s application but that I would consider dismissing it with leave to reapply.

The landlord indicated that she did not wish to have to go through this process again.

In considering dismissing this application with or without leave to reapply, I turn my mind to balancing an interest in giving an applicant the opportunity to present one’s case against requiring a respondent having to respond/appear more than once. In this case, the tenant may have a legitimate claim for compensation; however, I did not give the

applicant the opportunity to present her case due in large part to her failure to familiarize herself and comply with the Rules of Procedure. In contrast, the landlord prepared a lengthy and detailed written response in preparing for this case and appeared at the hearing prepared to respond to the claims against her; however, I am of the view that if I were to grant the tenant leave to reapply, the landlord may re-use much of the response she has already prepared and that it will not be unduly prejudicial to the landlord to grant the tenant leave to reapply. Therefore, I dismiss this application with leave to reapply.

Before filing another Application for Dispute Resolution, I strongly encourage the tenant to further explore settlement discussions with the landlord. If settlement is not reached, I strongly encourage the tenant to familiarize herself with the requirements of an applicant under the Act and Rules of Procedure. This information may be obtained on the Residential Tenancy Branch website and/or by contacting an Information Officer with the Branch.

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 05, 2019

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Residential Tenancy Branch