



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding REMAX LITTLE OAK  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      FFT MNDCT MNRT MNSD RPP

### Introduction and Preliminary Issue

This decision pertains to the tenant's application for dispute resolution made on March 11, 2019 under the *Residential Tenancy Act* (the "Act"). The tenant sought

1. compensation for various items under section 67 of the Act,
2. an order for the landlord to return the tenant's personal property, pursuant to section 65 of the Act,
3. compensation for the cost of emergency repairs, pursuant to sections 33 and 67 of the Act,
4. the return of a security deposit, pursuant to section 38 of the Act, and
5. compensation for the filing fee, pursuant to section 72 of the Act.

At the first dispute resolution hearing on April 30, 2019, the tenant and landlord's agent attended. The tenant requested an adjournment for the purpose of submitting medical documentation so that an in-person hearing be held.

At the second dispute resolution hearing, the tenant testified that she submitted medical documentation to the Residential Tenancy Branch on June 6, 2019. However, I could not locate the documentation in the file, nor was there any information on the file notes indicating that the Residential Tenancy Branch staff were aware of the request.

The tenant briefly summarized the medical issues that she suffers from and explained why they are not conducive to a teleconference-type hearing. While the reasons provided appeared to me to be reasonable, without having the medical documentation in front of me I cannot say this definitively.

However, I was reluctant to proceed with the hearing based on the oral submissions of the tenant, as doing so may, I found, give rise to a potential breach of the principles of natural justice and procedural fairness. That having been said, the onus is on the tenant to demonstrate to the satisfaction of the Residential Tenancy Branch that an in-person hearing is necessary.

After some discussion, the tenant suggested that she withdraw her application. And, that if she re-applies, that she includes the required medical documentation supporting the request for an in-person hearing. I explained that she must explicitly make it clear to the Residential Tenancy Branch, when and if she reapplies, that an in-person hearing (and not a teleconference hearing) is requested.

The landlord was amenable to the tenant's withdrawal and noted that they filed an application for dispute resolution against the tenants (which includes a second tenant that was previously removed from the tenant's application). The landlord's dispute against the tenants is scheduled for a teleconference hearing on September 20, 2019.

Should the tenant reapply, her file may be crossed with (that is, heard at the same time as) the landlord's file, though whether this occurs, and whether an in-person hearing is granted, will be at the discretion of the Residential Tenancy Branch.

### Conclusion

The tenant withdraws her application for dispute resolution against the landlord. She remains at liberty to reapply within two years of the date of the end of the tenancy.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: June 20, 2019

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Residential Tenancy Branch