



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC MNR MNSD FF

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. A participatory hearing was held on October 24, 2019. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage or loss under the Act and for unpaid rent or utilities;
- permission to retain the security deposit to offset what is owed; and,
- to recover the filing fee from the Tenant for the cost of this application.

The landlord attended the hearing and provided testimony. Only one of the Tenants, V.A., attended the hearing. The Landlord stated she served V.A. by registered mail on July 18, 2019. V.A. confirmed receipt of this package. The Landlord stated she provided V.A. a copy of her evidence along with this Notice of Hearing package. The Landlord stated that she waited until October 7, 2019, to serve the other two Tenants, who were not present at the hearing. The Landlord confirmed that there was additional calculations and evidence in the packages sent to the two Tenants who were not present. After speaking with the Tenant at the hearing, I find it would be prejudicial to allow the Landlord's application to proceed today given she blatantly disregarded the timelines set out in the Rules of Procedure, which led to some confusion during the hearing.

Rule of Procedure 3.1 states the following:

*3.1 Documents that must be served with the Notice of Dispute Resolution*

*Proceeding Package The applicant must, **within three days** of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, **serve each respondent** with copies of all of the following:*

*a) the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute Resolution;*

*b) the Respondent Instructions for Dispute Resolution;*

*c) the dispute resolution process fact sheet (RTB-114) or direct request process fact sheet (RTB-130) provided by the Residential Tenancy Branch; and*

*d) any other evidence submitted to the Residential Tenancy Branch directly or through a Service BC Office with the Application for Dispute Resolution, in accordance with Rule 2.5 [Documents that must be submitted with an Application for Dispute Resolution].*

I find that by waiting nearly 3 months after applying to serve the other two tenants, that this impacted their ability to understand and respond to the issues in the application. Further, it appears the Landlord updated her evidence package and added information when she served the remaining two tenants with her Notice of Hearing. I find the manner in which the Landlord served the Tenants, and modified her evidence package which was attached to the Notice of Hearing, is prejudicial to the Tenants. As such, I dismiss the Landlord's application, in full, with leave to reapply.

As stated in the hearing, the Landlord must serve each of the Tenants, within 3 days of the Notice of Hearing being made available to the Landlord/applicant. Further, the evidence served to each of them should be the same, and done in a timely manner. I encourage the Landlord to read the Rules of Procedure, or consult our office, should she need clarity on how to complete her application and serve her documentation.

This decision does not change or extend any statutory timelines under the Act.

### 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: October 24, 2019

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Residential Tenancy Branch