



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ADVANCED REALTY  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** *RR, MNDC, FF*

### **Introduction**

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for a monetary order for loss under the *Act* and for the filing fee. Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant represented herself. The landlord was represented by their agents.

As both parties were in attendance, I confirmed service of documents. The landlord confirmed receipt of the tenant's evidence. I find that the landlord was served with evidentiary materials in accordance with sections 88 and 89 of the *Act*.

The landlord stated that the package he received from the tenant did not include a copy of the tenant's application and therefore he did not have information and codes required to upload evidence and join the conference call. The landlord testified that he contacted the Residential Tenancy Branch office and was given the call-in information but was refused the dispute access code that would enable him to upload his evidence. Accordingly, the landlord did not upload his evidence. The audit notes on the landlord's electronic file confirm that he contacted the Branch office.

### **Preliminary Matters**

Section 59 (3) of the *Residential Tenancy Act* states that a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it. The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

Rule 3 of the Residential Tenancy Branch Rules of Procedure addresses:

Serving the application and submitting and exchanging evidence

Rule 3.1: lists 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

The purpose of serving a notice of hearing and application for dispute resolution to the respondent is to notify the person being served of matters relating to arbitration and to provide the person with an opportunity for rebuttal.

In this case, I accept the landlord's testimony that he was not provided with a copy of the tenant's application which had the dispute access code and information on uploading evidence. I also accept that the landlord contacted the Branch office and was provided with a code to join the hearing by conference call but was not provided with a dispute access code, to enable him to upload evidence.

Since the landlord was unable to upload evidence that he intended to rely on, conducting the hearing and using the tenant's evidence alone in the making of the decision, would prejudice the landlord and result in a breach of the principles of natural justice. Therefore, I am dismissing the tenant's application with leave to reapply.

### **Conclusion**

The tenant'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: November 18, 2019

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Residential Tenancy Branch