



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CASCADIA APARTMENT RENTALS  
LTD and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNRL FFL

### Introduction and Analysis

This hearing dealt with the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act) for a monetary order for unpaid rent or utilities, and to recover the cost of the filing fee.

An agent for the landlord SP (agent) attended the teleconference hearing. As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated May 12, 2020 (Notice of Hearing) was considered. The agent testified that the Notice of Hearing, documentary evidence and application were mailed via registered mail to the tenant and addressed to the rental unit addressed on May 14, 2020. A tracking number was submitted in evidence and has been included on the style of cause for ease of reference. The agent testified that the tenant continues to occupy the rental unit. According to Canada Post online tracking website, the package was delivered on May 15, 2020. Based on section 90 of the Act, I deem the tenant served as of May 19, 2020, which is five days after it was mailed as during the pandemic Canada Post is not requiring signatures for registered mail recipients.

The application was filed May 11, 2020. Words utilizing the singular shall also include the plural and vice versa where the context requires.

### Preliminary and Procedural Matters

Firstly, the agent confirmed their email address and their understanding that the decision would be emailed to the landlord and sent by regular mail to the tenant as the landlord did not have an email address for the tenant.

Secondly, I must determine if this application is premature based on Residential Tenancy Branch (RTB) Policy Guideline 52 – COVID-19: Repayment Plans and Related Measures (PG 52). PG 52 states in part the following:

**E. APPLICATIONS FOR MONETARY ORDERS FOR UNPAID AFFECTED RENT MADE BEFORE JULY 31, 2020**

If a valid repayment plan has been given to a tenant and the tenant is in good standing because:

- the first payment has not come due, or
- the tenant is paying the installments as required,

an arbitrator may grant a monetary order but it will be subject to the terms of the repayment plan. The order will set out that the tenant must pay the unpaid affected rent in accordance with the repayment plan.

In the matter before me, the landlord failed to submit a copy of the repayment plan. As a result, I find this application is premature as the agent testified that the first payment is not due until October 1, 2020.

Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

The landlord's application is dismissed with leave to reapply as this application is premature based on PG52 and considering that a copy of the repayment plan was not submitted in evidence for my consideration.

The landlord is encouraged to wait until after October 1, 2020, as the agent testified that October 1, 2020 is the date in which the first installment for the repayment plan is due.

Conclusion

This application is premature and is dismissed with leave to reapply.

This decision does not extend any applicable time limits under the Act.

I do not grant the filing fee as this application is premature.

This decision will be emailed to the landlord and sent by regular mail to the tenant.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: September 11, 2020

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Residential Tenancy Branch