



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDCT, FFT

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on July 21, 2020 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage or compensation; and
- an order granting recovery of the filing fee.

The Tenant and the Landlord attended the hearing at the appointed date and time. At the start of the hearing, the Tenant stated that he served his Application to the Landlord by placing it in her mailbox. The Tenant could not recall when this service took place. The Landlord stated that she was away all summer, and that she did not retrieve the package until the end of August 2020.

The Landlord stated that it was not clear to her what the Tenant was claiming for as there was not a clear description provided, or how the Tenant came to the monetary amount he was seeking. The Landlord stated that she was unable to respond to the Application accordingly.

The Landlord stated that she received the Tenant's documentary evidence package in her mailbox on November 3, 2020, only 7 days before the hearing. The Landlord stated that this late service has left her with insufficient time to adequately respond to the Tenant's Application. The Tenant confirmed that he served the Landlord with his documentary evidence on November 3, 2020. The Tenant stated that his Application was to do with the return of his deposit, as well as compensation for his overpayment of rent throughout the tenancy.

### Preliminary Matters

The parties agreed that the Tenant served his Application to the Landlord by placing it in the Landlord's mailbox. Section 89 of the Act establishes the following Special rules for certain documents, which include an application for dispute resolution: An application for dispute resolution,...when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;*
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;*
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;*
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;*
- (e) as ordered by the director under section 71(1) [director's orders: delivery and service of document]...*

I find that the Tenant's Application was not served in accordance with Section 89 of the Act.

The parties agreed that the Tenant served his documentary evidence to the Landlord on November 3, 2020, 7 days before the hearing.

### **Residential Tenancy Rules of Procedure 3.14 Evidence not submitted at the time of Application for Dispute Resolution**

Except for evidence related to an expedited hearing (see Rule 10), documentary and digital evidence that is intended to be relied on at the hearing must be received by the respondent and the Residential Tenancy Branch directly or through a Service BC Office not less than 14 days before the hearing.

I find that the Tenant breached Rule of Procedure 3.14 by waiting until November 3, 2020 to serve the respondent with the documentary evidence he intended to rely on at the hearing. I accept that this left the Tenant with insufficient time to consider, prepare and respond to the documentary evidence provided.

Lastly, the Landlord stated that it was not clear to her as to what the Tenant was applying for other than the monetary amount listed on the Application. The Landlord stated that she was unsure how to respond to the Application.

According to Section 59 (2) An application for dispute resolution must;

- (a) be in the applicable approved form,
  - (b) **include full particulars of the dispute that is to be the subject of the dispute resolution proceedings**, and
  - (c) be accompanied by the fee prescribed in the regulations.
- (3) Except for an application referred to in subsection (6), **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, or within a different period specified by the director.**
- (5) **The director may refuse to accept an application for dispute resolution if**
- (a) in the director's opinion, the application does not disclose a dispute that may be determined under this Part,
  - (b) the applicant owes outstanding fees or administrative penalty amounts under this Act to the government, or
  - (c) **the application does not comply with subsection (2).**

I find that proceeding with the Tenant's monetary claim at this hearing would be prejudicial to the Landlord, as the absence of particulars that set out how the Tenant arrived at the amount of \$1,013.00 makes it difficult, if not impossible, for the Landlord to adequately prepare a response to the Tenant's claim. The Tenant failed to specify a detailed breakdown of their monetary claim including the amount of each item and what each item being claimed represents in the "Details of Dispute" section of the Application.

For these reasons, the Tenant's Application is dismissed with leave to reapply. The Tenant is reminded to provide a detailed breakdown of her monetary claim and is encouraged to use the Monetary Worksheet available at [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca) when submitting a monetary claim. The Tenant may include any additional pages to set out the details of his dispute in their application, as required.

Should the Tenant choose to reapply, the Tenant is encouraged to serve the Application and documentary evidence in the manner and within the required time frames outlined above.

Conclusion

The Tenant's Application has been refused pursuant to sections 59(5)(c) and 59(2)(b) of the *Act*. The Tenant is at liberty to reapply for her monetary claim; however, is encouraged to provide a detailed breakdown of any future monetary claim at the time an application is submitted.

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 10, 2020

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Residential Tenancy Branch