



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes

Tenants: CNR  
Landlords: MNDL, MNDCL, MNRL-S, FFL

### Introduction

This hearing dealt with cross applications for Dispute Resolution under the *Residential Tenancy Act* ("Act") by the Parties.

The Tenants filed a claim for:

- an Order to cancel the 10 Day Notice to End Tenancy for Unpaid Rent dated October 4, 2020;

The Landlords filed a claim for:

- compensation for monetary loss or other money owed of \$1,575.00;
- a monetary order for damage or compensation under the Act of \$100.00;
- a monetary order for unpaid rent in the amount of \$600.00; and
- recovery of the \$100.00 cost of their Application filing fee.

The Landlord, K.C., appeared at the teleconference hearing; however, no one attended on behalf of the Tenants. The teleconference phone line remained open for over ten minutes and was monitored throughout this time. The only person to call into the hearing was the Landlord, who indicated that he was ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, was the Landlord.

The Landlord explained that he had not served the Tenants with his application and notice of hearing documents, because he said he did not know where they were. However, the Landlord had the Tenants' email address and he could have applied for substituted service via email. Accordingly, I dismiss the Landlords' application with leave to reapply.

I advised the Landlord that as an applicant, he was required to serve these documents on the Respondents of this proceeding, pursuant to the Act and the Residential Tenancy Branch (“RTB”) Rules of Procedure (“Rules”).

I reproduce the relevant Rules below. The requirements within these Rules are consistent with the principles of natural justice and administrative fairness, with which administrative hearings, such as this, must be conducted.

### **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].

[underlining emphasis added]

There may be some evidence on which an applicant wants to rely that is not available at the time the applicant applies to the RTB for dispute resolution. The applicant may submit this evidence to the RTB and serve it on the respondent(s), as soon as possible, but not more than 14 days before the hearing, as provided under Rule 3.14.

### **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. In the

event that a piece of evidence is not available when the applicant submits and serves their evidence, the arbitrator will apply Rule 3.17.

[underlining emphasis added]

Further, the Landlord said that the Tenants were completely moved out on November 5, 2020, although he said they left a lot of garbage and other mess behind. Given this, and because no one appeared on behalf of the Tenants, I dismiss the Tenants' application without leave to reapply.

### Conclusion

The Tenants' application is dismissed without leave to reapply, as they vacated the rental unit prior to the hearing and failed to attend the hearing. The Landlords' application is dismissed with leave to reapply, as the Landlords failed to serve the Tenants with their application and Notice of Hearing in this matter.

The Parties provided their email addresses in their applications, and this Decision has been emailed to both Parties.

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: January 04, 2021

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Residential Tenancy Branch