



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **INTERIM DECISION**

### **Dispute Codes**

Landlord: MNDCL-S  
Tenant: MNSDS-DR, FFT

### **Introduction**

This hearing was reconvened from an adjourned hearing originally scheduled for February 12, 2021 in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The landlord requested:

- a monetary order for money owed or compensation for damage or loss pursuant to section 67.

The tenant requested:

- authorization to obtain a return of all or a portion of their security deposit pursuant to section 38; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the reconvened hearing with their agents, and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

### **Preliminary Issue – Amendment to Landlord’s Application**

An inquiry was made after the adjourned hearing that was held on February 12, 2021 to confirm whether the landlord had properly filed an amendment to their application. It was confirmed by the RTB that although the landlord had uploaded an amendment form along with their bulk evidence package on January 25, 2021, no formal amendments have been properly filed by the landlord in accordance with RTB Rules of Procedure and Residential Tenancy Policy Guideline #23.

Residential Tenancy Policy Guideline #23 sets out of the sequence of events that must be followed in amending an application, including the following steps:

- 1. the applicant completes an Amendment to an Application for Dispute Resolution (form RTB-42);*
- 2. the applicant submits this form and a copy of all supporting evidence to the Residential Tenancy Branch directly or through a Service BC office to allow service upon each other party as soon as possible, and in any event to each other party not less than 14 days before the date of the hearing;*
- 3. the Residential Tenancy Branch or Service BC accepts the Amendment to an Application for Dispute Resolution form submitted in accordance with the Rules of Procedure;*
- 4. the applicant serves each respondent with a copy of the Amendment to an Application for Dispute Resolution form with all supporting evidence as soon as possible, and in any event, so that it is received not less than 14 days before the date of the hearing; and*
- 5. the arbitrator, at the hearing, considers whether the principles of administrative fairness have been met through the amendment submission process and whether any party would be prejudiced by accepting the amendment(s), determines whether to accept the amendment(s) and records the determination in a written decision.*

Although the landlord did upload the proper form as part of their evidentiary materials, the Residential Tenancy Branch confirmed that the landlord did not follow the specific step as outlined in Step 2. In light of this information, I was unable to consider the landlord's amendment to their original application, and informed the landlord that a decision could only be made on the original application as filed.

After considering their options, the landlord confirmed that they wished to withdraw their entire application, with leave to reapply. Accordingly, the landlord's entire application was withdrawn. I make no findings on the merits of these matters. Liberty to reapply is not an extension of any applicable timelines.

**Preliminary Issue: Tenant's Application:**

Both parties confirmed that the landlord was still in possession of the tenant's security deposit. Both parties also confirmed that although the tenant had filed this cross application for the return of their security deposit, the tenant had also filed a separate application for additional monetary claims, and a hearing has been set for May 11, 2021 at 1:30 p.m. to deal with those matters, as well as the tenant's application for the return of the tenant's security deposit.

After discussing the issue with their agent, the tenant confirmed that they wished to have the matter heard as scheduled on May 11, 2021. Accordingly, this application was withdrawn by the tenant. I make no findings on the merits of this matter. Liberty to reapply is not an extension of any applicable timelines.

During the hearing, the tenant confirmed that for the purposes of being served documents, they may be served by way of email to the address confirmed in the hearing as long as their agent is also emailed a copy. Both the tenant and agent confirmed their email addresses in the hearing, which is noted on the cover page of this decision.

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: April 27, 2021

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Residential Tenancy Branch