



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDCL, FFL

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for a monetary order for damage or compensation under the Act of \$17,150.00; and to recover the \$100.00 cost of their Application filing fee.

The Landlord, the Tenant, and an advocate for the Tenant, L.H. ("Advocate"), appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process.

I considered service of the Notice of Dispute Resolution Hearing. Section 59 of the Act and Rule 3.1 state that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Tenant said that she did not receive anything from the Landlord in this matter. The Landlord testified that he served the Tenant with the Notice of Hearing documents by Canada Post registered mail, sent on December 24, 2021. The Landlord provided a Canada Post tracking number as evidence of service. However, the Landlord said that he sent the package to the rental unit address, as he believed the Tenant would be living there until the end of December 2020. The Tenant said that she vacated the rental unit in the first week of December 2020, and that she had not given the Landlord her forwarding address yet, as she gave the Landlord authorization to use her security and pet damage deposits for December's rent. I find that the Landlord did not serve the Tenant properly with the Application, Notice of Hearing, and evidentiary submissions. The Parties testified that the Tenant was planning on moving out of the rental unit **by** the end of December 2020; and therefore, I find that it would have been reasonable of the Landlord to have determined that the Tenant had not vacated the rental unit at the time he mailed the documents.

Parties are required to follow the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules") in these proceedings. I reproduced 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]

If you need any of this explained further, please don't hesitate to call the RTB office and speak with an information officer for clarification of any residential tenancy matter.

In light of the above, I dismiss the Landlord's Application with leave to reapply.

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: May 18, 2021

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Residential Tenancy Branch