



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      MNDCT FFT

### **Introduction**

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for compensation for money owed or monetary loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application from the landlords pursuant to section 72.

Both parties attended the hearing 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. Both parties were clearly informed of the RTB Rules of Procedure about behaviour including Rule 6.10 about interruptions and inappropriate behaviour, and Rule 6.11 which prohibits the recording of a dispute resolution hearing. Both parties confirmed that they understood.

### **Preliminary Issue – Tenants' Late Evidence**

The tenants submitted evidence as part of their application, which the landlords testified was not received by them until June 30, 2021. The tenants confirmed that they had served the landlords with their materials on June 25, 2021 by way of registered mail. The landlords testified that they did not have enough time to review and respond to these materials before the hearing.

Rule 3.14 of the RTB's Rules of Procedure establishes that a respondent must receive evidence from the applicant not less than 14 days before the hearing.

A party to a dispute resolution hearing is entitled to know the case against him/her and must have a proper opportunity to respond to that case. In this case, the landlords testified that they did not receive the evidence within the required time period, and that

admitting this late evidence would be prejudicial to them as they did not have the opportunity to review this evidence before the hearing. I find that the tenants' evidence was not served within the timelines prescribed by rule 3.14 of the Rules. On this basis I find that there is undue prejudice to the landlords by admitting the tenants' late evidence. I informed the tenants that their late evidence would be excluded for the purposes of this hearing.

The tenants considered their options during the hearing, and decided to withdraw their claim. Liberty to reapply is not an extension of any applicable timelines.

The filing fee is a discretionary award issued by an Arbitrator usually after a hearing is held and the applicant is successful on the merits of the application. As I was not required to make a decision on the merits of this case, I find that the tenants are not entitled to recover the \$100.00 filing fee paid for this application. The tenants must bear the cost of this filing fee.

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: July 6, 2021

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Residential Tenancy Branch