



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDL-S, MNRL, MNDCL, FFL

### Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on August 3, 2021 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for unpaid rent or utilities;
- a monetary order for damage, compensation, or loss;
- an order to retain the security deposit; and
- an order granting recovery of the filing fee.

The hearing was scheduled for 1:30pm on February 15, 2022 as a teleconference hearing. Only the Landlord appeared at the appointed date and time. No one appeared for the Tenant. The conference call line remained open and was monitored for 14 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Landlord and I were the only persons who had called into this teleconference.

The Landlord stated that the Tenant has not provided the Landlord with her forwarding address. The Landlord stated that she has texted the Tenant and has served the documents to someone other than the Tenant with the Application. The Landlord stated that she was unsure how to submit evidence in preparation for the hearing.

### Preliminary Matters

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 Landlord's Application was not served in accordance with Section 89 of the Act.

### **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 Landlord provided no evidence to demonstrate that the Tenant was served in accordance with the Rules of Procedure.

Lastly, 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 Landlord's monetary claim at this hearing would be prejudicial to the Tenant, as the absence of evidence demonstrating that the Tenant was served the Landlord's Application or any particulars that set out how the Landlord arrived at the amount of \$7,800.00 makes it difficult, if not impossible, for the Tenant to adequately prepare a response to the Landlord's claim.

For these reasons, the Landlord's Application is dismissed with leave to reapply. The Landlord is reminded to provide proof that the Tenant was sufficiently served with the Notice of Hearing, and any documentary evidence including 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.

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

### Conclusion

The Landlord's Application has been refused pursuant to sections 59(5)(c) and 59(2)(b) of the *Act*.

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: February 15, 2022

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Residential Tenancy Branch