



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNRL-S, MNDCL-S, FFL  
                             MNSDB-DR, FFT

### Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) that was filed by the Landlords under the *Residential Tenancy Act* (the Act) on March 14, 2022, seeking:

- Recovery of unpaid rent;
- Compensation for monetary loss or other money owed; and
- Recovery of the filing fee; and
- Retention of the security deposit and/or pet damage deposit.

This hearing also dealt with a Cross-Application for Dispute Resolution (the Cross-Application) that was filed by the Tenant under the Act on March 29, 2022, seeking:

- The return of their security deposit and/or pet damage deposit; and
- Recovery of the filing fee.

The hearing was convened by telephone conference call at 1:30 P.M. on November 10, 2022, and was attended by the Landlord J.V, the Landlord's spouse A.S., and an assistant/support person S.P. No one appeared on behalf of the Tenant. All testimony provided was affirmed.

The participants were advised that pursuant to rule 6.10 of the Residential Tenancy Branch Rules of Procedure (Rules of Procedure), interruptions and inappropriate behavior would not be permitted and could result in limitations on participation, such as being muted, or exclusion from the proceedings. The participants were asked to refrain from speaking over one another and to hold their questions and responses until it was their opportunity to speak. The participants were also advised that pursuant to rule 6.11

of the Rules of Procedure, recordings of the proceedings are prohibited, except as allowable under rule 6.12, and confirmed that they were not recording the proceedings.

The Rules of Procedure state that respondents must be served with a copy of the Application and Notice of Hearing. As the Tenant did not attend the hearing, I inquired with the Landlord regarding service of the documents as explained below. The Landlord's support person/assistant S.P. stated that the Landlord was unaware of the requirement to serve the Tenant with any documentation as they assumed that the Residential Tenancy Branch (the Branch) would do this. As a result, they did not serve the Tenant with any documents in relation to this hearing, including but not limited to the Notice of Dispute Resolution Proceeding (NODRP) package emailed to them by the Branch on March 18, 2022, for service on the Tenant.

Section 59(3) of the Act states that 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.

Rule 3.1 of the Rules of Procedure also states that within 3 days of the hearing package being made available by the Branch, the applicant must serve each respondent with copies of all of the following:

- a) the Application for Dispute Resolution;
- b) the notice of dispute resolution proceeding letter provided to the applicant by the Residential Tenancy Branch;
- c) the dispute resolution proceeding information package 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].

Based on the testimony before me, I find that the Tenant has not been served with the NODRP or the documentary evidence before me in accordance with the above noted sections of the Act and the Rules of Procedure. Further to this, I find that the opportunity to know the case against you and the opportunity to be heard are fundamental to the dispute resolution process. As the Tenant was not served with the NODRP or the documentary evidence before me on behalf of the Landlords, I find that they did not have a fair opportunity to know the case against them or appear in their defense. As a

result, I find that it would be a breach of the Act, the Rules of Procedure, and the principles of administrative justice and procedural fairness to proceed with the hearing of the Landlords' Application as scheduled. As a result, the Landlords' Application is dismissed with leave to re-apply, with the exception of their claim for recovery of the filing fee, which is dismissed without leave to re-apply.

Although the Tenant also filed an Application against the Landlords' seeking recovery of their security deposit and/or pet damage deposit and recovery of the filing fee, no one appeared at the hearing on behalf of the Tenant. Rule 7.3 of the Rules of Procedure states that if a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply. As the Landlord, their spouse, and their assistant/support person, and I attended the hearing on time and ready to proceed, and no one appeared on behalf of the Tenant in support of their Application, I dismiss their Application in its entirety without leave to reapply.

### Conclusion

The Landlords' Application is dismissed with leave to re-apply. This is not an extension of any statutory deadline.

The Tenant's Application is dismissed without leave to re-apply.

As neither Application proceeded on its merits, I decline to make any orders with regards to the security deposit and/or the pet damage deposit.

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: November 10, 2022

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Residential Tenancy Branch