



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## DECISION

Dispute Codes      MNSDS-DR, FFT

### Introduction

On August 18, 2022, an adjudicator appointed pursuant to the *Residential Tenancy Act* (the “Act”) adjourned the Tenant’s application for dispute resolution to a participatory hearing. She did so on the basis of an *ex parte* hearing using the Residential Tenancy Branch’s direct request process. The adjudicator adjourned the direct request for the following reasons:

*I find that there is no indication in the evidence and submissions as to whether the landlord resides or carries on business as a landlord at the address where the Notice of Dispute Resolution – Direct Request was sent.*

*I also note that the landlord’s name on the tenancy agreement (Person K.S.B.) does not match the landlord named as a respondent in the Application for Dispute Resolution (Person S.K.).*

*Finally, the Tenant’s Direct Request Worksheet indicates that the tenant paid a security deposit in the amount of \$400.00. However, the tenancy agreement submitted by the tenant only lists a deposit in the amount of \$300.00.*

*I find these discrepancies raise question that can only be addressed in a participatory hearing.*

This hearing was convened as a result of the Tenant’s application under the Act for:

- return of the security deposit in the amount of \$400.00 pursuant to sections 38 and 38.1; and
- authorization to recover the filing fee from the Landlord pursuant to section 72.

The Landlord and the Landlord’s sister RB attended this hearing.

The Tenant did not attend this hearing. I left the teleconference hearing connection unlocked until 1:40 pm in order to enable the Tenant to call into the hearing scheduled to start at 1:30 pm. I confirmed that the correct call-in numbers and participant access code had been provided in the notice of dispute resolution proceeding. I used the teleconference system to confirm that the Landlord's group and I were the only ones who had called into the hearing.

#### Preliminary Matter – Tenant's Non-attendance

Rules 7.3 and 7.4 of the Residential Tenancy Branch Rules of Procedure state:

##### **7.3 Consequences of not attending the hearing**

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.

##### **7.4 Evidence must be presented**

Evidence must be presented by the party who submitted it, or by the party's agent. If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

The Tenant did not attend this hearing to present evidence regarding the merits of her application, while the Landlord duly attended. Accordingly, in the absence of any evidence or submissions from the Tenant, I dismiss this application without leave to re-apply.

#### Conclusion

This application is dismissed in its entirety without leave to re-apply.

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, 2023

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Residential Tenancy Branch