



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **INTERIM DECISION AND REASONS**

Dispute Codes      MNSD, MNDC, MNR, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for unpaid rent and money owed or compensation for damage or loss, authority to retain the security deposit in partial satisfaction of the claim and to recover the filing fee.

The parties appeared at the hearing. The landlord was questioned as to their late submission of evidence, which was not filed with their application, but rather an extensive amount of evidence was filed beginning the week prior to the hearing.

Additionally, the tenants filed written submissions, stating that the landlord had not served them a copy of their application, only a notice of the hearing. The tenants claimed that the lack of a complete hearing package and late submission of evidence prejudiced their rights for a fair hearing.

One day prior to the hearing, the tenants also faxed into the Residential Tenancy Branch a statement suggesting that they were considering filing their own dispute resolution application, due to the information provided in the landlord's evidence.

Upon questioning, the attending tenant stated that the tenants would be filing their own dispute resolution application.

### Issue(s) to be Decided

Have the tenants breached the Residential Tenancy Act (the "Act") or tenancy agreement, entitling the landlord to an order for monetary relief, authority to retain the tenants' security deposit and to recover the filing fee?

Should the hearing continue in light of the landlord's late submission of evidence not filed with the Application?

### Analysis

Section 6.3 of the Rules of Procedure gives the Dispute Resolution Officer authority to adjourn the dispute resolution proceeding to a later time on the Dispute Resolution Officer's own initiative.

Under Section 6.4 (c) I considered whether or not an adjournment was required to provide a fair opportunity for a party to be heard, including whether or not a party had sufficient notice of the dispute resolution hearing.

Therefore, due to the landlord's failure to file all available evidence to their application and delay in submitting their extensive amount of evidence and serving upon the tenants in a manner complying with the Residential Tenancy Branch Rules of Procedure, I find that to continue with the proceeding would unduly prejudice the rights of the tenants to defend the landlord's Application.

Therefore I order the hearing be adjourned and scheduled to reconvene in accordance with section 64 of the *Residential Tenancy Act*.

Additional documentary evidence from the landlord on their application will not be accepted.

The tenants are at liberty to submit their own application, should they so choose, in order that their application may be considered with the landlord's application.

The landlord is at liberty to submit evidence in accordance with the Residential Tenancy Branch the Rules of Procedure in response to any application made by the tenants.

### Conclusion

This hearing is adjourned to the date specified in the enclosed Notice of Adjourned Hearing.

The parties are advised that the hearing will commence on the day and time listed in the Notice of Adjourned Hearing whether or not you are in attendance, after which a final Decision will be rendered.

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: January 18, 2012.

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Residential Tenancy Branch