



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, OLC, PSF, MNDC, DRI, LAT, RR, RP, LRE

### Introduction

This hearing was scheduled on October 30, 2018 to deal with a tenant's application for monetary compensation for emergency repairs and other damages or loss under the Act, regulations or tenancy agreement; orders for repairs, for the landlord to comply with the Act, regulations or tenancy agreement, and to provide services or facilities; to dispute a rent increase; obtain authorization to reduce rent; obtain authorization to change the locks and suspend or set conditions on the landlord's right to enter the rental unit. Both parties appeared at the hearing.

At the start of the hearing, I explored service of hearing documents and evidence. The tenant testified that he sent the hearing package along with a USB stick to the landlord via registered mail within three days of filing. The tenant stated that the letter referred to in filing his Application was on the USB stick. The landlord confirmed receipt of the hearing documents but testified that a USB stick was not included in the registered mail package sent to him or at any other time. The landlord stated he did not receive the letter, a USB stick or any evidence from the tenant. I noted that I did not have a copy of the letter and that the tenant provided evidence to the Residential Tenancy Branch ("the Branch") on December 4, 2018. The tenant stated that he had provided a USB stick to the Branch at the time of filing but that it was misplaced. The tenant stated that he was informed by Branch staff and told there was no letter or evidence for his file so the tenant prepared another USB stick and delivered it to the Branch on December 4, 2018. The tenant could not recall whether the letter was on the second USB stick he delivered to the Branch on December 4, 2018.

I found the disputed testimony as to what was included in the registered mail sent to the landlord on or about October 30, 2018 did not satisfy me that the tenant sufficiently served the landlord with the letter that was to accompany the Application for Dispute

Resolution, especially considering it was not uploaded in the Branch's records either. Nor, was I satisfied the tenant's evidence was received by the landlord considering the Branch did not receive it until much later on December 4, 2018.

The landlord also pointed at that many of the issues raised by the tenant in the Application were previously raised and dealt with in a previous dispute resolution proceeding (file number referenced on the cover page of this decision) that was held on September 24, 2018 and November 8, 2018. I noted that many of the same issues raised in the Application before me appear to have been addressed in the decision issued on November 26, 2018 for the previous dispute resolution proceeding.

Section 59 of the Act provides that an applicant must provide full particulars of the issues to resolve with their Application. If an applicant refers to an attached letter in filing their Application, it is imperative that the document accompany the Application. In this case, the Application refers to a letter that neither I nor the landlord had. Nor, was the landlord in receipt of evidence. The tenant requested that his Application be withdrawn so that he may sufficiently serve all required information, documents and evidence. I permitted the withdrawal and gave the tenant leave to reapply. However, in doing so, I cautioned the tenant that decisions are final and binding, subject only to review provisions, and that he is not at liberty to repeatedly raise the same issues that have already been raised and decided upon by way of the previous dispute resolution proceeding under the principle of *res judicata*.

The landlord also indicated that he did not agree with the previous dispute resolution decision dated November 26, 2018. I did not permit the parties to revisit issues raised and decided upon previously as decisions are final and binding. I may not revisit or change a decision already issued by another Arbitrator. The landlord was informed that there are review provisions available and that he may seek further information from the Residential Tenancy Branch website or by contacting an Information Officer.

On November 29, 2018, the tenant had also submitted an Amendment to an Application for Dispute Resolution to dispute a 1 Month Notice to End Tenancy for Cause dated November 28, 2018. The tenant testified that he sent the Amendment to the landlord via registered mail on December 1, 2018. The landlord stated that he received an email from the concierge of his building that there was a package waiting to be picked up yesterday but that he had not yet picked it up. The package may or may not be the Amendment. The landlord submitted that seeking to dispute the 1 Month Notice this close to the hearing was very late. The landlord confirmed that he has evidence to

support issuance of the 1 Month Notice but that it has not yet been served upon the tenant or submitted to the Residential Tenancy Branch.

I was of the view that it would be prejudicial to proceed to consider the tenant's request to cancel the 1 Month Notice by way of the Amendment submitted so recently since the landlord had not been afforded sufficient time to submit/serve his evidence to support issuance of the 1 Month Notice. Also, the tenant still has time to file another Application for Dispute Resolution to dispute the 1 Month Notice. Accordingly, I declined to permit the Amendment. The parties were informed that if the tenant intends to dispute of the 1 Month Notice the tenant must file another Application for Dispute Resolution within 10 days of receiving the 1 Month Notice.

The landlord raised an issue with respect to installing a dishwasher in the rental unit. The parties were informed of the landlord's right to enter the rental unit for purposes of installing the dishwasher by way of serving the tenant with a proper written notice of entry and that the tenant must not interfere with the landlord's efforts to install the dishwasher.

The landlord attempted to raise an issue with respect to non-payment of rent for December 2018. I did not hear this issue and informed the landlord of his right to serve the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent if rent remains outstanding.

It was very obvious that this tenancy relationship has significantly deteriorated and I attempted to facilitate a mutual agreement to end tenancy during the remainder of the hearing time; however, the parties were not able to reach a mutually agreeable resolution.

### Conclusion

The tenant's original application is dismissed with leave to reapply. However, the tenant must not raise issues already raised and dealt with by way of the previous dispute resolution proceeding for which a decision was issued on November 26, 2018.

The tenant's request to amend the application to deal with a 1 Month Notice dated November 28, 2018 was denied. The tenant is at liberty to file another Application for Dispute Resolution, within the applicable time limit, to dispute the 1 Month Notice if he so chooses.

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: December 06, 2018

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Residential Tenancy Branch