



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **MNRL-S, MNDL-S, MNDCL-S, FFL**

### Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution, made on July 11, 2022 (the "Application"). The Landlords 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 Landlord and the Tenant attended the hearing. At the start of the hearing, the Tenant confirmed receipt of the Landlord's Notice of Hearing and documentary evidence package. As such, I find these documents were sufficiently served pursuant to Section 71 of the Act.

The Tenant submitted evidence to the Tenancy Branch, however, the Tenant stated they did not know they needed to serve the evidence to the Landlord.

According to the Rules of Procedure 3.15 Respondent's evidence provided in single package.

Where possible, copies of all of the respondent's available evidence should be submitted to the Residential Tenancy Branch online through the Dispute Access Site or directly to the Residential Tenancy Branch Office or through a Service BC Office. The respondent's evidence should be served on the other party in a single complete package. The respondent must ensure evidence that the respondent intends to rely on at the hearing is served on the applicant and submitted to the Residential Tenancy Branch as soon as possible. Except for evidence related to

an expedited hearing (see Rule 10) and an additional rent increase for capital expenditures application (see Rule 11), and subject to Rule 3.17, the respondent's evidence must be received by the applicant and the Residential Tenancy Branch not less than seven days before the hearing.

I note that Section 88 of the Act outlines that all documents, other than those referred to in section 89 [*special rules for certain documents*], that are required or permitted under this Act to be given to or served on a person must be given or served 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 ordinary mail or 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 ordinary mail or registered mail to a forwarding address provided by the tenant;
- (e) by leaving a copy at the person's residence with an adult who apparently resides with the person;
- (f) by leaving a copy in a mailbox or mail slot for the address at which the person resides or, if the person is a landlord, for the address at which the person carries on business as a landlord;
- (g) by attaching a copy to a door or other conspicuous place at the address at which the person resides or, if the person is a landlord, at the address at which the person carries on business as a landlord;
- (h) by transmitting a copy to a fax number provided as an address for service by the person to be served;
- (i) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*];
- (j) by any other means of service provided for in the regulations.

I find that the Tenant has not served the Applicant with her documentary evidence in accordance with the Rules of Procedure and the Act. As such, the Tenant's evidence will not be considered in this decision.

At the start of the hearing, the Landlord's monetary claims were reviewed. The Landlord referred to a monetary order worksheet which had been prepared by the Landlord

(*calculation of claims document 10*). The Landlord confirmed that Document 10 contained a complete list of the Landlord's monetary claims. I note that the claims amount to \$35,381.40.

### Preliminary Matters

Section 58(2) of the *Residential Tenancy Act* and 51(2) of the *Manufactured Home Park Tenancy Act* provide that the director must not determine disputes involving claims for debts or damages if the monetary amount claimed exceeds the limit set out in the Small Claims Act. The limit is currently \$35,000. If a claim for debts or damages exceeds the small claims limit, a person must apply to the BC Supreme Court. The court then determines whether it will hear and determine the dispute or order that the director hear and determine the dispute.

The Landlord was instructed that they must either pursue their monetary claim at BC Supreme Court, or reapply under the *Residential Tenancy Act* with a claim amount that does not exceed \$35,000.00.

After learning my finding, the Landlord argued that he may not be successful with all the claims, therefore, his monetary award would could be less than \$35,000.00. I note that the Act does not grant the director authority to determine the dispute over the small claims limit, regardless if the Applicant is successful or not with their claims. As the claims amount to over \$35,000.00 I am not able to determine the dispute.

The Landlord then provided contradictory testimony, in an attempt to reduce his monetary claim to amounts that had initially been claimed for at the time of submitting the Application, rather than pursuing the claims outlined in the monetary order worksheet. The Landlord changed his testimony to indicate that the monetary order worksheet was only for arguments sake and that his true monetary claims were contained in the Application itself.

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 particulars that set out how the Landlord arrived to a different amount other than the one listed in the *calculation of claims document 10* is difficult, if not impossible, for the Tenant to adequately prepare a response to the Landlord's claims.

For these reasons, the Landlord's Application is dismissed with leave to reapply. The Landlord is reminded to provide a detailed breakdown of his monetary claims 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. The Landlord may include any additional pages to set out the details of his dispute in their application, as required. The total amount being sought must be within the small claims limit in accordance with the *Act*.

### Conclusion

The Landlord's Application is dismissed with leave to reapply as it does not meet the requirements under Sections 58(2) and 59(2) 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: April 04, 2023

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Residential Tenancy Branch