



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPUMDR, FFL

### Introduction and Analysis

This hearing dealt with the landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for an order of possession for unpaid rent or utilities, for a monetary order for unpaid rent or utilities, to retain the tenants' security deposit and/or pet damage deposit, and to recover the cost of the filing fee.

The landlord originally applied through the Direct Request process and on July 25, 2018 an Interim Decision was issued which should be read in conjunction with this decision. In the Interim Decision, the matter was adjourned to a participatory hearing due to issues with required documentation. The adjourned hearing was scheduled for this date, Monday, September 17, 2018 at 11:00 a.m. Pacific Time.

At the adjourned hearing this date, two agents not listed on the original application attended the hearing and confirmed that they did not have a signed authorization submitted to support that they had the authority from the landlord to act on behalf of the landlord. In addition, the tenant testified that only two pages were served for the Notice of Dispute Resolution Hearing for the adjourned hearing ("Notice of Hearing") and that there were no codes provided to access the dispute resolution portal to upload the tenants' evidence as rebuttal evidence.

As a result, the two agents TT and EC ("agents") were asked how the tenants were served with the Notice of Hearing to which the agents stated on July 6, 2018 the female tenant was personally served which I find is impossible as the Notice of Hearing was dated July 26, 2018. Later in the hearing, the agents changed their testimony and said the tenants were served by registered mail and were asked for the registered mail tracking number in support of their testimony. The agents instead provided the file number of the dispute instead of a registered mail tracking number. The agents then requested permission to contact the lawyer that was listed on the original application;

which is the same person the agents testified was no longer representing the landlord earlier in the hearing. As a result, the agents were advised that their application was being dismissed with leave to reapply due to a service issue as I was not satisfied that the tenants had been sufficiently served, and I find the agents were extremely unprepared for the hearing without relevant material before them.

Both parties have the right to a fair hearing. The tenants would not be aware of the hearing and access codes to upload their documentary and/or digital evidence without the entire Notice of a Dispute Resolution Hearing and Application. Therefore, **I dismiss** the landlord's application **with leave to reapply** as I am not satisfied that the tenants have been sufficiently served with the Notice of Hearing based on the agents' contradictory testimony and lack of supporting registered mail tracking number. I note this decision does not extend any applicable time limits under the *Act*.

The agents are reminded that before applying on behalf of a landlord they should ensure they have a signed authorization from the landlord to support that they are authorized to attend a dispute resolution hearing representing the landlord.

### Conclusion

The landlord's application is dismissed with leave to reapply due to a service issue. This decision does not extend any applicable time limits under the *Act*. I do not grant the filing fee under the *Act*.

This decision will be emailed to both parties at the email addresses confirmed at the hearing.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: September 17, 2018

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Residential Tenancy Branch