



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

matter regarding RELIANCE PROPERTIES LTD. and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      RR, FFT

### Introduction

This hearing was convened as a result of the tenant's Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act"). The tenant applied for a rent reduction and to recover the cost of the filing fee. Originally, the tenant also requested an order that the landlord comply with the *Act*, regulation or tenancy agreement; however, removed that aspect of their application by way of an amendment received on March 25, 2019.

The tenant and an agent for the landlord, BS, ("agent") appeared at the teleconference hearing and gave affirmed testimony. Neither party raised any concerns regarding the service of documentary evidence.

### Preliminary and Procedural Matter

At the outset of the hearing, the parties were advised that the tenant's application reads in part:

In November 2018 Tenants got notice of impending Elevator replacement, given its unreliable nature. But on February 27th 2019 I get notice of the Landlord's intent to raise my rent, despite the pending replacement and construction chaos ahead and the fact that the elevator has not functioned normally for over two years now, failing to provide normal access to my unit.

This being a 50% reduction in rent, based on the Landlords plan to replace the elevator over a three month period starting Summer 2019 thus limiting my access to my ninth floor unit by stairs only. The 50% is roughly what previous similar circumstance have received from the Residential Tenancy Branch.

The parties confirmed that work on the elevator in the building has not yet commenced. As a result, the parties were advised that I find the tenant's application to be premature as the tenant is requesting rent reduction based on work to the building elevator that has not yet commenced.

In response, the tenant stated that what he intended to apply for was to dispute a rent increase. The parties were advised that the application did not include a request to dispute the rent increase and that the submission of documentary evidence does not amend an application for dispute resolution.

### Analysis

Based on the above, I find the tenant's application for a rent reduction for elevator work that has not commenced is premature. Furthermore, I find it would be prejudicial to continue with the hearing related to a dispute of a rent increase as I find the tenant failed to include that request as part of their original and amended application. The tenant has liberty to apply to dispute a rent increase, but must clearly state that in their application at the time they apply so that the other party knows the claim being made against them and can properly prepare for the hearing. Rules 2.1 and 2.2 of the Residential Tenancy Branch Rules of Procedure require that all claims must be made through an application and that the claim is limited to what is stated in the application. In other words, a claim is not made through the submitted of supporting evidence.

I do not grant the recovery of the cost of the filing fee as a result of the above.

### Conclusion

The tenant's application for a rent reduction related to elevator work that has not commenced is premature and is dismissed, with leave to reapply.

The tenant is at liberty to apply to dispute a rent increase if they so choose to do so.

The filing fee is not granted.

The decision will be emailed to both parties at the email addresses confirmed by the parties during 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: April 12, 2019

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Residential Tenancy Branch