



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **INTERIM DECISION**

**Dispute Codes**      RR FFT

### **Introduction**

A hearing is scheduled for March 10, 2020 at 11:00 A.M. to deal with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72 of the *Act*.

On February 25, 2020, the tenant's counsel filed an application for a summons for the production of documents.

### **Tenant's Application for a Summons to Produce Documents**

The tenant requested a summons for the landlord to produce the following documents: "the complete maintenance log for the two elevators at..., from the dates of January 1, 2018 to February 1, 2020".

Counsel submits that the documents will show when and to what extent the property has had elevator issues in the past two years. Counsel submits that the document will show the factual timeline for elevator issues, and that no prejudice would result from producing them.

Section 5.3 of the RTB Rules of Procedure states the following:

#### ***5.3 Application for a summons***

*On the written request of a party or on an arbitrator's own initiative, the arbitrator may issue a summons requiring a person to attend a dispute resolution proceeding or produce evidence. A summons is only issued in cases where the evidence is necessary, appropriate and relevant. A summons will not be issued if a witness agrees to attend or agrees to provide the requested evidence.*

*A request to issue a summons must be submitted, in writing, to the Residential Tenancy Branch directly or through a Service BC Office, and must:*

- state the name and address of the witness;*
- provide the reason the witness is required to attend and give evidence;*
- describe efforts made to have the witness attend the hearing;*
- describe the documents or other things, if any, which are required for the hearing; and*
- provide the reason why such documents or other things are relevant.*

I have reviewed the tenant's application for a summons for the production of documents for this application. Although counsel did explain the relevance of these documents to the hearing and application, counsel did not describe what efforts were made to obtain these documents from the landlord, and whether the landlord has responded to the tenant or counsel's requests. As stated in Rule 5.3 as set out above, a summons will not be issued if the other party agrees to provide the requested evidence.

As I am not satisfied that the applicant has provided sufficient evidence to support that they have made these requests of the landlord, and that the landlord had failed to produce these documents after these requests were made, I dismiss this application for a summons for the production of the requested documents.

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: February 26, 2020

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Residential Tenancy Branch