



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPT, FFT

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order of possession of the rental unit pursuant to section 54;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference and provided affirmed testimony with the assistance of a mandarin translator.

The tenant stated that the landlord was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on August 26, 2020. The landlord confirmed receipt of the package. The landlord stated that he served documentary evidence to the tenant on September 8, 2020 via Canada Post Registered Mail to the rental unit as the landlord does not have the tenant's mailing address. The tenant disputes this stating that no evidence has been received and the tenant's mailing address is provided on the tenant's application.

I accept the undisputed evidence of both parties and find that the landlord was sufficiently served with the notice of hearing package and the tenant's documentary evidence via Canada Post Registered Mail on August 26, 2020 as per sections 88 and 89 of the Act. On the landlord's late evidence submission, I find that the landlord has attempted to serve both the tenant and the Residential Tenancy Branch late, 3 days before the scheduled hearing. The tenant's package was sent to the rental unit address despite the landlord receiving the tenant's address in the application for dispute. On this basis, I find that the landlord's evidence is excluded from consideration in this decision.

Extensive discussions over a 118 minute period resulted in the hearing being adjourned due to lack of time. Both parties were advised that a new notice of adjournment would be provided to both parties detailing the next date, time and call in codes for the continuation. Both parties were also advised that no new evidence was to be submitted, nor would it be accepted. Both parties are advised that as this is a possession issue, all efforts shall be made to obtain the soonest available date for continuation.

On September 25, 2020 the hearing was resumed, the tenant attended the hearing with a translator, H.C.

The hearing was paused for 10 minutes to allow the landlord an opportunity to attend and participate in the hearing.

After waiting 10 minutes the hearing resumed with the tenant and his translator. Extensive discussions from the tenant revealed that prior to the adjourned hearing date, the tenant attended the rental unit to discover that it is in the midst of a renovation. The tenant stated that he wished to cancel his application for an order of possession as he finds that it would be unrealistic to wait for the completion of the renovations to move back in. On this basis, the tenant's application was cancelled and no further action is required.

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: September 25, 2020

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Residential Tenancy Branch