



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFT, ERP**

Introduction

This hearing dealt with an application by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- An order requiring the landlord to carry out emergency repairs pursuant to section 33;
- An order requiring the landlord to reimburse the tenant for the filing fee pursuant to section 72.

The parties attended and were given a full opportunity to be heard, to present affirmed testimony, make submissions, and call witnesses. I explained the hearing process and provided the parties with an opportunity to ask questions. The parties did not raise any issues regarding the service of evidence.

At the outset, the landlord stated the Arbitrator did not have jurisdiction to hear the matter as the landlord was a Status Indian and the unit was located on reserve lands. In support of his position, the landlord submitted documents including a copy of his Certificate of Indian Status and a copy of a letter of May 18, 2020 from the Okanagan Indian Band stating the unit is on reserve land.

Residential Tenancy Policy Guideline # 27 – Jurisdiction states in part:

The Residential Tenancy Branch, therefore, has no jurisdiction on reserve lands if:

- The landlord is an Indian or Indian Band; or
- The dispute is about use and possession.

I find that the unit is on reserve lands and the landlord is an Indian.

Accordingly, further to the *Act* and *Policy Guideline # 27 – Jurisdiction*, I find I do not have jurisdiction to hear this application.

Therefore, the Application is dismissed without leave to reapply.

Conclusion

The Application is dismissed without leave to reapply.

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: October 07, 2020

Residential Tenancy Branch