



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OLC FFT

### Introduction

This hearing was convened as the result of the tenant's Application for Dispute Resolution (application) seeking remedy under the *Manufactured Home Park Tenancy Act* (Act) for an order directing the landlord to comply with the Act, regulation or tenancy agreement, and to recover the filing fee.

The tenant, a witness for the tenant, TC (witness) who did not testify, and a support person for the tenant, LB (support), and the landlord attended the teleconference hearing. All parties, except the witness who was not called to testify, were affirmed and an opportunity to ask questions about the hearing process was provided to both parties.

The landlord confirmed that they were served with the tenant's documentary evidence in advance of the hearing and had the opportunity to review that evidence. The landlord's evidence was excluded in full as the landlord confirmed they had been served a couple months prior to the hearing and waited until 3 days before the hearing before they served their documentary evidence contrary to the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 3.15 applies and states:

The respondent must ensure evidence that the respondent intends to rely on at the hearing is served on the applicant and submitted to the Residential Tenancy Branch as soon as possible. Except for evidence related to an expedited hearing (see Rule 10), and subject to Rule 3.17, **the respondent's evidence must be received by the applicant and the Residential Tenancy Branch not less than seven days before the hearing.**

[emphasis added]

Given the above, the landlord was advised that I could consider their testimony at the hearing but that I would not be considering any documentary evidence that was served as it was served late and contrary to Rule 3.15.

### Preliminary and Procedural Matters

The parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under RTB Rule 6.11. The parties were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the parties were informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. Neither party had any questions about my direction pursuant to RTB Rule 6.11.

In addition, the parties confirmed their respective email addresses at the outset of the hearing and stated that they understood that the decision would be emailed to them.

### Issues to be Decided

1. Is this application premature?
2. If yes, is the tenant entitled to recover the filing fee under the Act?

### Background and Evidence

A previous decision determined that the Act applies to this tenancy and therefore confirms that I have jurisdiction to consider this dispute. That previous decision file number has been included on the cover page of this decision and will be hereinafter referred to as the Previous Decision.

While the landlord does not agree with the Previous Decision, there is no evidence before me that the Previous Decision has been overturned by way of a Judicial Review or has been varied or set aside by way of a Review Consideration Decision.

What I must first determine is whether the tenant's application is premature. The tenant writes in their application that the landlord returned a year's worth of post-dated cheques from the tenant and put them through the tenant's cat door. In addition, the tenant writes that they must remove the addition from the previous dispute. The parties were advised that the Previous Decision only dealt with jurisdiction and did not make any finding in terms of an addition to the rental unit. Furthermore, the tenant confirmed

that they have not been served with any Notice to End Tenancy related to the addition or non-payment of rent.

The tenant also alleged that power has been turned off at times and was reminded that this application does not related to power being shut off as the application made no reference to that issue/

### Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

Firstly, the parties were advised that I am unable to order the landlord from issuing a Notice to End Tenancy under the Act as the Act allows for situations where a Notice to End Tenancy can be issued, as long as it is in the prescribed form and complies with section . Should the landlord serve the tenant with a Notice to End Tenancy under the Act, it would be at that time that the tenant could dispute the Notice to End Tenancy by making an application with the RTB. Therefore, I find this application is premature as the parties agreed that no Notice to End Tenancy has been issued by the landlord.

Secondly, and as noted above, this Previous Decision made no findings regarding an addition to the rental site or manufactured home. Therefore, I disagree with the tenant that this application is a continuation of that issue.

Thirdly, I find that the application did not make any reference to power being turned off and as a result, if that is an issue, the tenant is at liberty to apply for dispute resolution under the Act for remedy.

Given the above, I find this application to be premature and is dismissed without leave to reapply.

I do not grant the filing fee as this application was premature.

Should the tenant be issued a Notice to End Tenancy, the tenant may dispute that Notice to End Tenancy in accordance with the Act. All Notices to End Tenancy must be in the approved form pursuant to section 45 of the Act.

### Conclusion

The tenant's application is premature and is dismissed without leave to reapply.

Should the tenant receive a Notice to End Tenancy, the tenant may dispute that Notice to End Tenancy as prescribed under the Act.

I do not grant the filing fee as this application was premature.

This decision will be emailed to both parties.

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 *Manufactured Home Park Tenancy Act*.

Dated: April 15, 2021

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Residential Tenancy Branch