



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      PSF OLC MNDCT FFT

### Introduction

The tenant applied for relief under the *Manufactured Home Park Tenancy Act* (“Act”).

The tenant, her agent, the agent’s advocate, another tenant not party to this application, and two representatives for the corporate landlord, attended the hearing.

It should be noted that the tenant’s agent attended the hearing in the absence of the tenant. There was no documentation on file indicating that the agent had authority to act on behalf of the tenant. However, the tenant was able to briefly attend the hearing and verbally confirm with me that the agent was authorized to act on the tenant’s behalf. The reason for my requiring this confirmation was to satisfy [Rule 6.8](#) of the Residential Tenancy Branch’s *Rules of Procedure* (the “Rules”).

### Preliminary Issue: Service of Notice of Dispute Resolution Proceeding package

The tenant’s agent testified that she served the landlord with her Notice of Dispute Resolution Proceeding and evidence package by Canada Post registered mail on September 3, 2021. Documentary evidence of this service consisted of a receipt and a tracking number. What was missing from this evidence, however, was any documentation confirming that the package was signed for by the recipient landlord or otherwise received by anyone acting on the landlord’s behalf.

The landlord’s representative (the corporation’s president) testified that the landlord only found out about this hearing, and the tenant’s application, after receiving an automated reminder email from the Residential Tenancy Branch on December 3, 2021. As such, the only information they had was the hearing information, and with no evidence.

Both [section 52\(3\)](#) of the Act and Rule 3.1 of the *Rules* requires that an applicant serve a copy of their application (which is accompanied by a Notice of Dispute Resolution Proceeding) within three days of making their application, or, when the Notice of Dispute Resolution Proceeding is given to the applicant.

Linked to this important requirement is Rule 3.5 of the *Rules*, in which “the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure.”

In this application, while I find no fault with the tenant’s agent attempt to send the Notice of Dispute Resolution Proceeding package to the landlord, based on the lack of evidence that the package was received, including the fact that the landlord testified that they never received it, I am not satisfied on a balance of probabilities that the respondent was sufficiently served with the Notice of Dispute Resolution Proceeding.

Given this finding, and as it would be a breach of procedural fairness and natural justice – a fair hearing requires a respondent to be given sufficient notice of a claim made against them – should this matter proceed to a hearing, the application must be dismissed in its entirety.

### Conclusion

The application is hereby dismissed, with leave to reapply.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: December 17, 2021

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Residential Tenancy Branch