



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ARI-C

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "**Act**") for an additional rent increase for capital expenditure pursuant to section 23.1 of the Residential Tenancy Regulation (the "**Regulation**").

The landlords did not attend this hearing, although I left the teleconference hearing connection open until 11:10 am in order to enable the landlords to call into the hearing scheduled to start at 11:00 am. Both tenants attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I used the teleconference system to confirm that the tenants and I were the only ones who had called into the hearing.

The tenants testified that they were never served with the with the notice of dispute resolution package or the landlord's supporting documentary evidence. They testified that they only became aware of this hearing on January 10, 2022, when they received an automatically generated email of the Residential Tenancy Branch reminding them of their deadline for submitting evidence.

Rule of Procedure 6.6 states:

6.6 The standard of proof and onus of proof

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

The onus to prove their case is on the person making the claim. In most circumstances this is the person making the application.

This is the landlords' application. As such, they bear the onus to prove their claim. As the landlords failed to attend the hearing, I find that they have failed to discharge their evidentiary burden to prove that they are entitled to the order sought. Pursuant to Rule of Procedure 7.4, the landlords (or their agent) must attend the hearing and present their evidence for it to be considered. As this did not occur, I have not considered any of the documentary evidence submitted by the landlords to the Residential Tenancy Branch in advance of the hearing.

I dismiss the landlords' application with 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: January 24, 2022

Residential Tenancy Branch