



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HARRON INVESTMENTS INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OLC, MNDCT, FFT

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for an Order for the Landlord to Comply with the Act or tenancy agreement; for a monetary order of \$10,385.52 for damage or compensation under the Act; and to recover the \$100.00 cost of her Application filing fee.

The Tenant and three agents for the Landlord, L.M., S.Y., and R.S. ("Agents"), appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about it.

During the hearing the Tenant and the Agents were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party.

Early in the hearing, we reviewed the Parties' service of documents on each other. Section 59 of the Act and Rule 3.1 state that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Tenant testified that she served the Landlord with the Notice of Hearing documents by Canada Post registered mail; however, the Tenant did not have the Canada Post tracking number for this package, and she did not remember when she mailed it.

The Agent, L.M., said that the Landlord was not served with this package by the Tenant by registered mail. Rather, the Agent said that on May 3, 2022, they found an unsealed envelope on the floor of the building in which the Landlord has an office addressed to the caretaker, S.Y. The Agent said this envelope contained a copy of the tenancy agreement, the Notice of Dispute Resolution, a USB stick with no documentation explaining the contents, a bank statement showing rental payments to the Landlord, a

rent increase notice, and a letter from the Tenant dated March 1, 2022, addressed to “[S] and [L]”.

I advised the Tenant that she was provided with the Notice of Hearing documents by the RTB on April 12, 2022, by email. Residential Tenancy Branch (“RTB”) Rule of Procedure (“Rules”) 3.1 clearly states that an applicant such as **the Tenant must within three days** of receiving the Package from the RTB, **serve** the respondent with the Notice of Hearing package, as follows:

**Rule 3.1** states that the applicant must, within three days of the Notice of Dispute Resolution Proceeding Package being made available by the RTB, serve each respondent with copies of all of the following:

- a) the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute Resolution;
- b) the Respondent Instructions for Dispute Resolution;
- c) the dispute resolution process fact sheet (RTB-114) or direct request process fact sheet (RTB-130) provided by the Residential Tenancy Branch; and
- d) any other evidence submitted to the Residential Tenancy Branch directly or through a Service BC Office with the Application for Dispute Resolution, in accordance with Rule 2.5 [Documents that must be submitted with an Application for Dispute Resolution].

The Tenant said she sent other evidence to the Landlord in another registered mail package, for which she provided the Canada Post tracking number. However, the Landlord said that they did not receive this package at all.

In terms of additional evidence on which an applicant may want to rely, the applicant may submit this evidence to the RTB and serve it on the respondent(s), as soon as possible, but not more than 14 days before the hearing, as provided under Rule 3.14.

### **3.14 Evidence not submitted at the time of Application for Dispute Resolution**

Except for evidence related to an expedited hearing (see Rule 10), documentary and digital evidence that is intended to be relied on at the hearing must be received by the respondent and the Residential Tenancy Branch directly or

through a Service BC Office not less than 14 days before the hearing. In the event that a piece of evidence is not available when the applicant submits and serves their evidence, the arbitrator will apply Rule 3.17.

[underlining emphasis added]

Based on the testimony and the evidence submitted regarding service, as I said in the hearing, I dismiss this matter fundamentally because the Tenant failed to provide sufficient evidence that she served the Landlord with her Notice of Hearing package pursuant to the Rules. Further, the Tenant's additional evidence could not be considered, because it was not received by the Landlord, and if it were mailed to the Landlord, it was not delivered within the time deadlines set out in the Rules.

In addition, after a pre-hearing review of the Tenant's audio evidence submitted to support her claim, I was unable to find that the Tenant had sufficient evidence to prove her case on a balance of probabilities. I had the volume in my headphones at the loudest possible setting; however, I was unable to hear anything in some of the audios, and could only hear a faint tapping in the other recording. As such, I find there are no reasonable grounds for the Application to proceed.

If you need any of this explained further, please don't hesitate to call the RTB office and speak with an information officer for clarification of any residential tenancy matter.

In light of the above, I dismiss the Tenant's Application 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: July 21, 2022

---

Residential Tenancy Branch