



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDCT, OLC, 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 a monetary order of an unspecified amount for damage or compensation under the Act; for an Order for the Landlord to Comply with the Act or tenancy agreement; and to recover her \$100.00 Application filing fee.

The Tenant appeared at the teleconference hearing and gave affirmed testimony. No one attended on behalf of the Landlord. The teleconference phone line remained open for over 25 minutes and was monitored throughout this time. The only person to call into the hearing was the Tenant, who indicated that she was ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, was the Tenant.

I explained the hearing process to the Tenant and gave her an opportunity to ask questions about it. During the hearing the Tenant was given the opportunity to provide her evidence orally and to respond to my questions. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

As the Landlord did not attend the hearing, I considered service of the Notice of Dispute Resolution Hearing. 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, although she did not remember the date, nor did she have Canada Post tracking numbers available as evidence of service.

I note in the evidence submitted by the Landlord that he acknowledges receipt of the

dispute resolution package and the Tenant's evidence; however, the Landlord said that he did not receive this package until approximately a week before the hearing.

**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].

There may be some evidence on which the Applicant wants to rely that is not available at the time the Applicant applies to the RTB for dispute resolution. The Applicant may submit this evidence to the RTB and serve it on the Respondent, as soon as possible, but not more than 14 days before the hearing, as provided under Rule 3.14.

Our records show that the Tenant applied for dispute resolution on May 3, 2022, and that we emailed her the Notice of Hearing package on May 18, 2022. As such, and according to Rule 3.1, the Tenant was required to serve the Landlord with these documents by May 21, 2022, which was months before the Landlord indicated that he received these documents.

I find that the Tenant failed to serve the Landlord pursuant to the Rules, and therefore, it would be administratively unfair and against the Rules to proceed with this matter.

I encourage the Tenant to retain Canada Post registered mail tracking number(s) to prove service of documents in the future.

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

This Decision does not extend any applicable time limits under the Act.

In light of the above, I dismiss the Tenant's 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: September 28, 2022

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Residential Tenancy Branch