



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      ERP

### Introduction, Preliminary and Procedural Matters-

This expedited hearing was convened as a result of the tenant's application for dispute resolution seeking remedy under the Residential Tenancy Act (Act) made on May 7, 2023, for an order requiring the landlord to make emergency repairs to the rental unit for health or safety reasons.

The tenant, the landlord and the landlord's agent (agent), attended, the hearing process was explained, and they were given an opportunity to ask questions about the hearing process.

The tenants' application for dispute resolution, evidence, and notice of hearing (NODRP) was made available to the tenants on May 8, 2023. The tenant confirmed they did not serve their NODRP to the landlord until May 25, 2023, by email.

There was no evidence that the landlord had agreed to be served documents by email.

In addition, the landlord, who was served the NODRP late and by email, filed documentary evidence on the day of the hearing, but the agent confirmed they had not served this document to the tenant as it was just discovered.

The documentary evidence was a report from the landlord's plumber who inspected the rental unit and found the heating system working correctly.

As to the tenants' application, Residential Tenancy Branch Rules of Procedure (Rules) 10.3 states the following for expedited hearings:

*The applicant must, within one day of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:*

- *the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute Resolution;*
- *the Respondent Instructions for Dispute Resolution;*
- *an Order of the director respecting service;*
- *the Expedited Dispute Resolution Process Fact Sheet (RTB-114E) provided by the Residential Tenancy Branch; and*
- *evidence submitted to the Residential Tenancy Branch online or in person, or through a Service BC Office with the Application for Dispute Resolution, in accordance with Rule 10.2 [Applicant's Evidence Relating to an Expedited Hearing].*

In this case, as the NODRP was made available on May 8, 2023, the tenant was required to serve these documents to the landlord by May 9, 2023, in a way required by section 89(1) of the Act. In this case, the tenant served the landlord late, by email, and there was no evidence the landlord agreed to this type of service.

I therefore find the tenant submitted insufficient evidence that their application package was served to the landlord according to the requirements of Rule 10.3 and within one day of receiving the application package.

I therefore dismiss the tenants' application, **with leave to reapply**, due to service issues as described above. For this reason, I am unable to consider the merits of the tenants' application.

Leave to reapply does not extend any applicable time limitation deadlines.

The landlord may wish to give the tenant a copy of their documentary evidence in order to resolve this matter prior to the tenant making another application for dispute resolution.

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*. Pursuant to

section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: June 05, 2023

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Residential Tenancy Branch