



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Municipal Affairs

Page: 1

## DECISION

Dispute Code: ARI-C

### Introduction

This decision is in respect of the landlord's application made under the *Residential Tenancy Act* (the "Act") and the *Residential Tenancy Regulation* (the "Regulation") for an additional rent increase for capital expenditures under section 23.1 of the Regulation.

Two agents/representatives for the landlord, five tenants, and an advocate for one of the tenants, attended the hearing. The landlord's representatives were affirmed.

### Preliminary Issue: Service of the Landlord's Evidence

After the landlord presented its application, the tenant's advocate brought forward an issue concerning the landlord's service of evidence. Or rather, the lack thereof. According to the advocate—and orally confirmed by four of the tenants—the landlord only served the Notice of Dispute Resolution Proceeding (or parts of the Notice).

The Notice of Dispute Resolution Proceeding in this matter is a 154-page PDF document, which contains information on how to call into the hearing, along with brief summaries of the capital expenditure amounts. However, the Notice of Dispute Resolution Proceeding does not include anything else, such as documentary evidence.

The only non-Notice of Dispute Resolution Proceeding document served on the tenants appears to be a one-page pdf titled *Roof\_Repairs\_Project\_Payment\_Summary*. This document lists all the receipts, invoices, and cash payments made on the landlord's project, totalling just over \$77,000.

The landlord's documentary evidence consists of 66 documents, 50 of which are PDFs and 16 of which are image (JPG) files. The landlord uploaded this hefty collection of evidence to support their application, but they failed to serve, give, or by any manner deliver a copy of this evidence to any of the tenants.

### Findings and Analysis

In an application under the Act, it is the applicant must prove their claim on a balance of probabilities. Stated another way, the evidence must show that the events in support of the claim or application were more likely than not to have occurred.

In this case, the tenants collectively take issue with several key points in the landlord's application. In other words, they dispute and oppose the landlord's application.

Serving evidence is important because it formally presents proof to support one's claim or application, it ensures that all parties are aware of the information being presented to the arbitrator, and it allows the arbitrator to make a decision based on facts rather than assumptions or unsupported assertions.

The Notice of Dispute Resolution Proceeding, which was emailed to the landlord on August 7, 2025 (for a hearing date of September 12, 2025) states on page 2 that "The applicant is required to give the Residential Tenancy Branch proof that this notice and copies of all supporting documents were served to the respondent." In addition, the Notice states that "It is important to have evidence to support your position with regards to the claim(s) listed on this application."

These requirements reflect Rule 11.2 of the *Rules of Procedure*, which requires that "Notwithstanding Rule 3.14, evidence the applicant intends to rely on at the hearing must be received by the respondent and the Residential Tenancy Branch not less than 30 days before the hearing." Further, *Residential Tenancy Policy Guideline 37C. Additional Rent Increase for Capital Expenditures* (ver. June 2023) at page 13 explains the requirements around the service of evidence, and refers to Rule 11.2.

Rule 3.5 of the *Rules of Procedure* states that where an applicant cannot demonstrate that each respondent was served as required by the Act and the *Rules of Procedure*, the arbitrator has the authority to dismiss the application.

Given that the landlord was afforded ample time and provided with clear instructions to serve its 66 items of documentary evidence to the tenants, but has failed to do so, it is my finding that due to the seriousness of the procedural breach, the landlord has not been successful in this application. Their application must therefore be dismissed.

## **Conclusion**

The application is dismissed without leave to reapply.

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

Dated: September 15, 2025

Residential Tenancy Branch