



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OLC, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the Residential Tenancy Act, (the “Act”), for an order that the landlord comply with the Act, regulation or tenancy agreement and recover the filing fee from the landlord.

The tenant attended the hearing. As the landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The tenant testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on October 28, 2015, which the tenant indicated was refused by the landlord.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the landlord has been duly served in accordance with the Act. I note that refusal or failure to accept service is not grounds for a Review.

### Issue to be Decided

Should the landlord be ordered to comply with the Act?

### Background and Evidence

The tenancy began on April 2014. Rent in the amount of \$410.00 was payable on the first of each month. A security deposit was not paid. The tenant rents a manufactured home that is within a manufactured home park.

The tenant stated that on October 1, 2015, they came home to discover that the building and safety authority (the "Authority") had attended the site to conduct an inspection on the exterior deck, as copy of the inspection report was left for the tenant by the Authority.

The tenant stated that the report indicates that the landlord contacted the Authority and requested the inspection. The tenant stated that the landlord did not give them 24 hours written notice that the building inspector would be attending the site for the inspection, nor did the landlord tell them that they called for an inspection.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case, the landlord asked the Authorities to inspect the exterior deck. I am unclear as to the reason why the inspection was requested; however, it is clear from the report that the deck does not meet BC Building Codes as the posts and beams are undersized.

Although the landlord requested the inspection, which may have been for safety concerns based on the report, I am not satisfied that the landlord had any control or input on when the Authority conducts an inspection, especially if there are safety concerns.

Further, there was no evidence that the landlord was in attendance at the inspection or even if the landlord knew that the building inspector was attending on October 1, 2015, in order to give the tenant any notice.

Furthermore, I find the tenant's application based on this one incident unreasonable, as the building inspector did not attend inside the rental unit; they were simply on the site to inspect the exterior deck, which the tenant was not present. The deck was found not to comply with the BC Building Codes, which could be a safety risk to anyone, that may access or use the deck, which would include the tenant.

In addition, the Residential Tenancy Act has no jurisdiction over a city building inspector that is conducting a building and safety inspection in the course of their duties.

I find the tenant has failed to prove a violation of the Act, by the landlord. Therefore, I dismiss the tenant's application. The tenant is not entitled to recover the filing fee from the landlord.

Conclusion

The tenant's application is dismissed.

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: December 09, 2015

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Residential Tenancy Branch

