



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **ERP FFT MNDCT RR**

### Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the "Act") for:

- An order for the landlord to perform emergency repairs pursuant to section 62;
- Authorization to recover the filing fee for this application from the landlord pursuant to section 72;
- A monetary order for damages or compensation pursuant to section 67; and
- An order to reduce rent for repairs, services or facilities agreed upon but not provided pursuant to section 65.

The tenant TM ("tenant") and the landlord AJ ("landlord") appeared for the scheduled hearing. As both parties were in attendance, service of documents was determined. The landlord testified she was not properly served with the Notice of Dispute Resolution Proceedings ("Notice") and never received the tenant's evidence. The landlord testified the Notice was left on the washing machine located in the shared common area of the house together with a post it note labelled 'your copy of our evidence'.

The tenant testified he sent the landlord the evidence by email which the landlord denies receiving.

According to the Residential Tenancy Branch Rules of Procedure (the "Rules of Procedure") 3.1; the applicant must, within three days 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:

- 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].*

According to the Rules of Procedure 3.11 and 3.14; documentary evidence the applicant intends to rely on at the hearing must be received by the respondent as soon as possible, but not less than 14 days before the hearing.

Section 89 sets out special rules for serving the above listed documents.

89(1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 71 (1) *[director's orders: delivery and service of documents]*.

The tenant testified he served his evidence by email which the landlord denies receiving. Email is not a form of service permitted under section 89 of the *Act*. As I am not satisfied that the Landlord was properly served with the tenants' Notice or documentary evidence in accordance with section 89, I dismiss the Tenants' Application with leave to reapply.

### Conclusion

I dismiss the tenants' application with leave to reapply. Leave to reapply does not extend any deadlines established pursuant to the *Act*.

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: May 2, 2019

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Residential Tenancy Branch