



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Pacific Cove Properties  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ERP

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for an order for emergency repairs pursuant to section 33.

The applicant/tenants did not attend this hearing, although I left the teleconference hearing connection open until 11:10 a.m. to enable the tenants to call into this teleconference hearing scheduled for 11:00 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

### Background and Evidence

The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord testified that he was not served with a copy of the tenants' Notice of Dispute Resolution Proceedings package. He found out about the hearing by being sent a reminder about the hearing via email from the Residential Tenancy Branch. Subsequently, the landlord contacted the Residential Tenancy Branch and was provided with a copy of the Notice of Dispute Resolution Proceedings by one of the branch's information officers.

### Analysis

Rule 7.3 of the Rules of Procedure provides that if a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application with or without leave to re-apply. Rule 7.4 states that evidence must be presented by the party who submitted it, or by the party's agent. If a party or their agent does not attend to present evidence, any written submissions supplied may or may not be considered.

Rule 6.6 states that the standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Further, rule 3.5 of the Residential Tenancy Branch Rules of Procedure states that at the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure. Residential Tenancy Branch Policy Guideline PG-12 states that failure to prove service may result in the matter being dismissed, with or without leave to reapply. Adjournments to prove service are given only in unusual circumstances.

The purpose of serving documents under the Legislation is to notify the parties being served of matters relating to the Legislation, the tenancy agreement, a dispute resolution proceeding or a review. Another purpose of providing the documents is to allow the other party to prepare for the hearing and gather documents they may need to serve and submit as evidence in support of their position. I find that procedural fairness requires that I be satisfied the landlord has been served with the application for dispute resolution.

The tenants did not attend the hearing. As they did not attend, they did not present evidence regarding the merits of their claim for me to consider, or satisfy me that on a balance of probabilities, the facts occurred as claimed. For failing to provide sufficient evidence proving their case or proof that they served the landlord with the Notice of Dispute Resolution Proceedings, the tenants' application is dismissed without leave to reapply.

### Conclusion

The application is dismissed without 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: August 06, 2021