



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC

### Introduction

This matter dealt with an application by the Tenant to cancel a One Month Notice to End Tenancy for Cause dated June 18, 2012. The Tenant said he served an agent (ie. the manager) of the Landlord with the Application and Notice of Hearing (the “hearing package”) in person on July 14 or 15, 2012. The Tenant filed his application for dispute resolution on June 25, 2012. The Tenant said he delayed in serving the Landlord with his application because there was a sign on the office (for a prolonged period of time) that said it was closed due to a death in the manager’s family.

Section 59(3) of the Act says that an application for dispute resolution must be served on a Respondent within three days of an applicant filing their application (and receiving their hearing package) unless the Applicant has the director’s permission to serve it at a later time. RTB Rule of Procedure 4 says that an application for dispute resolution must not be served *any later* than 5 business days prior to the hearing.

By serving his hearing package on the Landlord’s agent 1 – 2 non-business days prior to the hearing, I find that the Tenant has not complied with s. 59(3) of the Act or RTB Rule of Procedure #4. In particular, I find that the Tenant delayed in order to serve the Landlord’s agent personally however s. 89 of the Act says that an application for dispute resolution may also be served on a Landlord (or its agent) by registered mail. Consequently, I find that the Tenant could have complied with the time limits set out under the Act for serving his hearing package on the Landlord but that he failed to do so. No one attended the hearing on behalf of the Landlord.

### Conclusion

The Tenant’s application is dismissed with 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: July 16, 2012.

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Residential Tenancy Branch