



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding KALEIDOSCOPE VENTURES DBA RIVERSHORE MOBILE HOME PARK  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, FF

### Introduction and Preliminary Matter

This hearing convened as a result of the Landlord's Application for Dispute Resolution wherein the Landlord requested an Order of Possession based on a Notice to End Tenancy for Cause and to recover the filing fee.

Both parties appeared at the hearing. The Landlord was represented by the partners, L.V., K.F. and R.M. (collectively referred to as the "Landlord"). The Tenant was present, as was his advocate M.R. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form and make submissions to me.

At the outset of the hearing, the Landlord confirmed they did not serve their evidence on the Tenant believing that was not required. Further, they confirmed that although the Tenant is under the care of the Public Guardian and Trustee of British Columbia they did not notify the Public Guardian and Trustee of British Columbia of their application.

The Residential Tenancy Branch Rules of Procedure applies to both the *Residential Tenancy Act* or *Manufactured Home Park Tenancy Act* and provide as follows:

#### **1.1 Objective**

The objective of the Rules of Procedure is to ensure a fair, efficient and consistent process for resolving disputes for landlords and tenants.

#### **3.1 Documents that must be served**

The applicant must, within 3 days of the hearing package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the application for dispute resolution;

- b) the notice of dispute resolution proceeding letter provided to the applicant by the Residential Tenancy Branch;
- c) the dispute resolution proceeding information package provided by the Residential Tenancy Branch;
- d) a detailed calculation of any monetary claim being made;
- e) a copy of the Notice to End Tenancy, if the applicant seeks an order of possession or to cancel a Notice to End Tenancy; and
- f) any other evidence, including evidence submitted to the Residential Tenancy Branch with the application for dispute resolution, in accordance with Rule 2.5 [*Documents that must be submitted with an application for dispute resolution*].

### **3.14 Evidence not submitted at the time of Application for Dispute Resolution**

Documentary and digital evidence that is intended to be relied on at the hearing must be received by the respondent and the Residential Tenancy Branch not less than 14 days before the hearing.

In the event that a piece of evidence is not available when the applicant submits and serves their evidence, the Arbitrator will apply Rule 3.17.

In this case, the Landlord failed to follow the Rules by not serving their evidence on the Tenant. As such, the Tenant was not able to respond to the Landlord's evidence. To proceed would have denied the Tenant the right to a fair hearing and accordingly I dismiss the Landlord's Application with leave to reapply.

M.R. testified that the Tenant was not able to manage his personal, financial and legal affairs. Further, the Landlord confirmed the Tenant's manufactured home pad rent was paid by the Public Guardian and Trustee of British Columbia; as such, the Landlord was aware of the involvement of the Public Guardian and Trustee of British Columbia.

Accordingly, should the Landlord reapply, they are directed to serve the Public Guardian and Trustee of British Columbia with their application. The parties confirmed the name and phone number for K.R., the Tenant's contact person at the Public Guardian and Trustee of British Columbia's office, and the Landlord stated they would ensure she was aware of the proceedings.

### **Conclusion**

The Landlord failed to serve their evidence on the Tenant in accordance with the *Rules of Procedure*. The application is dismissed with leave to reapply. Should the Landlord reapply, they are directed to serve the Public Guardian and Trustee of British Columbia as well as the Tenant with their materials in accordance with the *Rules of Procedure*.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: September 11, 2015

---

Residential Tenancy Branch

