



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding THE CORPORATION OF THE VILLAGE OF HAZELTON  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: ET

Neither party attended at the appointed time set for the hearing, although I waited 15 minutes to enable them to participate in this hearing scheduled for 11:00 a.m. on September 13, 2018. 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 I was the only person who had called into this teleconference.

### **Rule 10.1 of the Rules of Procedure provides as follows:**

10.1 Commencement of the hearing: The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

For the information of the parties, I note that the Residential Tenancy Branch may not have jurisdiction in this matter. Policy Guideline 27 states:

### **1. Indian Lands**

Section 91 of the *Constitution Act* confers the jurisdiction over federal lands to the federal government. The Legislation are acts of the provincial legislature. The case law makes it clear that provincial legislation cannot affect the "use and occupation" of Indian Lands because that power belongs to the federal government under section 91.

The Legislation governs residential tenancy agreements within British Columbia. Since a tenancy agreement is an interest in land, any part of the Legislation which affects the use and occupation of Indian Lands does not apply to the rental unit or manufactured home site which is in dispute. Examples of sections in the *Residential Tenancy Act* which could affect the use and occupation of Indian Lands, and therefore may not apply to premises on Indian Lands, are sections 27 (order respecting a service or facility), 44 (notice to end the tenancy agreement) and 54 or 55 (order of possession).

Accordingly, in the absence of any evidence or submissions I order the application dismissed with liberty to reapply. I make no findings on the merits of the matter.

**Liberty to reapply is not an extension of any applicable limitation period.**

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: September 13, 2018

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Residential Tenancy Branch