



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC CNR FFT MNDCT MNSD OLC PSF RR

### Introduction

This is an application by the tenants under the *Residential Tenancy Act* (“the Act”) for:

- cancellation of the landlord’s 10 Day Notice to End Tenancy for Unpaid Rent (the “Ten-Day Notice”) pursuant to section 46;
- cancellation of the landlord’s One Month Notice to End Tenancy for Cause (the “One Month Notice”) pursuant to section 47;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to provide services or facilities required by law pursuant to section 65; and,
- recovery of the filing fee for this application from the landlord pursuant to section 72.

At the outset of the hearing, the parties testified that the tenancy had already ended by the date of the hearing. Accordingly, the tenants’ application to cancel the landlord’s Ten-Day Notice and One Month Notice were no longer at issue.

This application was filed by the tenants on January 5, 2019. The tenants testified that they did not serve the Notice of Hearing and Application for Dispute Resolution on the landlord. The tenants testified that they prepared their own document which they delivered to the landlord advising her of the tenants’ application. The landlord testified that she discovered the hearing by calling the Residential Tenancy Branch herself.

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*Residential Tenancy Branch Rules of Procedure* (the “RTB Rules”), Rule 3.1 requires an applicant to serve the following documents when making an application for dispute resolution:

3.1 Documents that must be served with the Notice of Dispute Resolution Proceeding Package 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]. **[emphasis added]**

*RTB Rules*, Rule 3.1 states the applicants must serve the Notice of Dispute Resolution Proceeding provided to the applicants by the Residential Tenancy Branch (the “RTB”). Applicants cannot generate their own notice in place of the documents provided by the RTB.

*Residential Tenancy Policy Guideline No. 12*, paragraph 16 states that an application for dispute resolution may be dismissed when a party has not been served. In this matter, I find that the landlord has not been properly served with the Notice of Dispute Resolution Proceeding and I dismiss the tenants’ application with leave to reapply.

Since the tenants have not prevailed in this matter, I dismiss the tenants’ request for reimbursement of the filing fee.

Conclusion

The tenants' application is dismissed with leave to reapply.

The tenants' request for reimbursement of the filing fee is dismissed.

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: March 07, 2019

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Residential Tenancy Branch