



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNE CNQ CNR FFT LRE MT OLC RP RR

### Introduction

This hearing was scheduled to deal with a tenant's Application for Dispute Resolution filed online on November 18, 2019 whereby the tenant applied for:

- cancellation of a 1 Month Notice to End Tenancy for End of Employment
- cancellation of a 2 Month Notice to End Tenancy Issued Because Tenant Does Not Qualify for Subsidized Rental Unit
- cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities
- an extension of time to file to dispute a Notice to End Tenancy
- orders to suspend or set conditions on the landlord's right to enter the rental unit or site
- orders for the landlord to comply with the Act, Regulations or tenancy agreement
- repair orders
- authorization to reduce rent payable for repairs not made
- recovery of the filing fee paid for this application

Both the tenant and the landlord appeared at the commencement of the hearing.

I confirmed that the tenant had sent the proceeding package to the landlord via registered mail on December 3, 2019. I also confirmed that the tenant did not send the landlord any other supporting documentation or evidence for this proceeding.

I noted that I had not been provided a copy of any of the notices to end tenancy the tenant sought to cancel. The tenant acknowledged that she did not provide them to the Residential Tenancy Branch at the time of filing or at any other time, claiming she did not know she had to provide the documents.

The landlord had uploaded a documentation package to the Residential Tenancy Branch on the day of this hearing, but he did not serve the package to the tenant.

Section 59 provides that an Application for Dispute Resolution must include the full particulars of the dispute that is to be the subject of the dispute resolution proceeding. Rules 2.5 and 3.1 require that a tenant disputing a notice to end tenancy must provide a copy of the notice to end tenancy they seek to dispute at the time of filing the Application for Dispute Resolution and serve it upon the respondent along with the proceeding package. These requirements are in keeping with the principles of natural justice and intended to ensure a fair proceeding.

Below, I have reproduced Rule 2.5 for the parties' reference:

**2.5 Documents that must be submitted with an Application for Dispute Resolution**

To the extent possible, the applicant should submit the following documents at the same time as the application is submitted:

- a detailed calculation of any monetary claim being made;
- 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
- copies of all other documentary and digital evidence to be relied on in the proceeding, subject to Rule 3.17 [Consideration of new and relevant evidence].

When submitting applications using the Online Application for Dispute Resolution, the applicant must upload the required documents with the application or submit them to the Residential Tenancy Branch directly or through a Service BC Office within three days of submitting the Online Application for Dispute Resolution.

[My emphasis underlined]

When a tenant files an online application to dispute a notice to end tenancy, the online system prompts the applicant to upload the notice to end tenancy or deliver it to the Residential Tenancy Branch within three days.

If a document is not available at the time of filing, an applicant may submit the document as soon as possible but not later than 14 days before the hearing, as provided under Rule 3.14.

In seeking to cancel a notice to end tenancy, I can think of no other document that is more relevant than the notice to end tenancy. The tenant did not provide a copy of the notice(s) to end tenancy she seeks to cancel when she filed, at any other time, for my review or with the hearing package she sent to the landlord. The tenant did not provide a reason for not providing the notice(s) to end tenancy other than she stated she did not know she had to which is not a basis for not complying with the requirements of the Act or the Rules of Procedure. Therefore, I find the tenant's actions, or lack thereof, to be a violation of the requirements of section 59 of the Act and Rules 2.5 and 3.1 of the Rules of Procedure.

The landlord stated that the document package he uploaded to the Residential Tenancy Branch included copies of notices to end tenancy; however, those documents were not served upon the tenant, as required under 3.15 of the Rules of Procedure. Rule 3.15 requires that the respondent serve any evidence the respondent intends to rely upon to the applicant, and submit it to the Residential Tenancy Branch, no less than 7 days before the hearing. The landlord failed to serve the tenant and submit the documents as required under Rule 3.15 and I declined to admit them into evidence.

In light of the above, I dismissed the tenant's application to dispute notice(s) to end tenancy. I do not provide the landlord with an Order of Possession as provided under section 55(1) of the Act as I do not have a copy of a notice to end tenancy before me and I am unable to verify that the notice(s) comply with the form and content requirements of the Act. The landlord is at liberty to file his own Application for Dispute Resolution to seek an Order of Possession if he is of the view he is entitled to one.

Considering it is possible the tenancy is already over, I did not give further consideration to the other remedies sought by the tenant in this application and those requests are 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: January 16, 2020

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Residential Tenancy Branch