



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Creators Creations LTD  
and [tenant name suppressed to protect  
privacy]

## **DECISION**

Dispute Codes CNQ-MT, FFT

### Introduction

This hearing was scheduled to deal with a Tenants' Application for Dispute Resolution filed online on March 9, 2020 whereby the tenant applied for:

- cancellation of a 2 Month Notice to End Tenancy for Landlord's Use;
- an extension of time to file to dispute a Notice to End Tenancy; and
- recovery of the filing fee paid for this application

The hearing was scheduled for 9:30 AM on May 4, 2020 as a teleconference hearing. The Tenant B.H., and the Tenant's witness T.A. attended the hearing at the appointed date and time. No one appeared for the Landlord. The conference call line remained open and was monitored for 15 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that B.H., T.A., and I were the only persons who had called into this teleconference.

The Tenant stated that he served the Landlord in person with his Application and documentary evidence to the Landlord's place of employment. Pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

### Preliminary Matters

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 to end tenancy he seeks to cancel when he filed, at any other time, for my review. The Tenant did not provide a reason for not providing the notice to end tenancy. 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.

In light of the above, I dismissed the Tenant's application to dispute Two Month Notice. I do not provide the Landlord with an Order of Possession as provided under section 55(1) of the Act as the Landlord did not attend the hearing, as well as I do not have a copy of a notice to end tenancy before me and I am unable to verify that the notice complies with the form and content requirements of the Act.

### Conclusion

The Tenant's Application is dismissed with leave to reapply. This is not an extension of any statutory deadline.

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: May 04, 2020

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Residential Tenancy Branch