



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Vancouver Native Housing Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** CNQ

### **Introduction**

This hearing dealt with an application by the tenant, pursuant to section 49 of the *Residential Tenancy Act*. The tenant applied to cancel the two-month notice to end tenancy. The reason for the notice is that the tenant does not qualify for subsidized housing.

Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant was accompanied by her social worker and her advocate. The landlord was represented by their agents.

As both parties were in attendance, I confirmed service of documents. The landlord stated that she served an evidence package to the tenant by posting the package on the front door of the rental unit, on November 15, 2020. The tenant denied having received the package and stated that she did not file any evidence of her own.

### **Analysis**

Rule 3 of the *Residential Tenancy Branch Rules of Procedure* addresses serving the application and submitting and exchanging evidence.

Section 3.15 states that the respondent must ensure evidence that the respondent intends to rely on at the hearing is served on the applicant and submitted to the Residential Tenancy Branch as soon as possible. Subject to Rule 3.17, the respondent's evidence must be received by the applicant and the Residential Tenancy Branch not less than seven days before the hearing.

Section 3.12 states that the arbitrator may refuse to accept evidence if the arbitrator determines that there has been a willful or recurring failure to comply with the Act, Rules of Procedure or an order made through the dispute resolution process, or if, for some other reason, the acceptance of the evidence would prejudice the other party or result in a breach of the principles of natural justice.

The purpose of serving evidence to the applicant in a timely manner is to respond to the applicant's evidence and to provide the applicant with an opportunity for rebuttal.

I find that the landlord has not provided sufficient reason why she could not have served evidence to the tenant in a timely manner and prior to November 15, 2020. In this case the tenant indicated that she would be rebutting some of the landlord's evidence. Since the tenant did not have adequate time to respond to the landlord's submissions, I am unable to consider the landlord's evidence during this proceeding.

Accordingly, I grant the tenant's application and dismiss the notice to end tenancy based on the landlord's failure to provide the tenant with a copy of her evidence in a timely manner and not based on the merits of the case.

### **Conclusion**

The notice to end tenancy is set aside and the tenancy will continue.

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: November 23, 2020

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Residential Tenancy Branch