



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BC HOUSING MANAGEMENT  
COMMISSION and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an early end to tenancy and an order of possession, pursuant to section 56; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 9 minutes. The landlord's agent ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord confirmed that he was the property manager for the landlord company named in this application and that he had permission to speak on its behalf. The landlord confirmed that the landlord company owned the rental unit.

This hearing began at 9:30 a.m. with the landlord and I present. I ended the conference at 9:39 a.m.

At the outset of the hearing, I notified the landlord that Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* does not permit recording of this hearing by any party. The landlord affirmed, under oath, that he would not record this hearing.

I explained the hearing process to the landlord. The landlord had an opportunity to ask questions. The landlord did not make any adjournment or accommodation requests.

### Preliminary Issue – Service of Landlord’s Application

The landlord testified that the tenant was served with the landlord’s application for dispute resolution hearing package by way of posting to the tenant’s rental unit door on July 22, 2021. The landlord stated that the tenant was taken to jail on July 5, 2021 and has not returned to the rental unit since then, as there has been no electronic activity on his FOB. The landlord claimed that he was told by the RTB to serve the tenant on the door. He said that he also discussed other service options with the RTB, including serving the tenant in person and serving the tenant’s lawyer. He explained that he did not know the tenant’s lawyer’s contact information and he contacted the police. He maintained that the application was taken off the tenant’s door, but he does not know when or by whom.

Accordingly, I find that the landlord failed to prove service in accordance with section 89 of the *Act* and the tenant was not served with the landlord’s application. The landlord is aware that the tenant has been in jail since July 5, 2021 and was not living at the rental unit at the time he served this application on July 22, 2021. The landlord confirmed that there has been no electronic activity from the tenant’s FOB at the rental building since July 5, 2021. The landlord does not know who took the application off from the tenant’s rental unit door or when it was taken. I find that the tenant does not have notice of the landlord’s application or this hearing, in order to respond. Neither the tenant, nor any agent on behalf of the tenant, attended this hearing to confirm service of the landlord’s application.

At the hearing, I informed the landlord that the landlord’s application was dismissed with leave to reapply, except for the filing fee. I notified him that the landlord could file a new application and pay a new filing fee, if the landlord wants to pursue this matter in the future. The landlord confirmed his understanding of same and stated that he would pursue this application in the future.

### Preliminary Issue – Inappropriate Behaviour by the Landlord during the Hearing

Rule 6.10 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure* states the following:

#### *6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing*

*Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.*

Throughout the hearing, the landlord yelled at me and interrupted me. I informed the landlord that I had to ask questions regarding service of the landlord's application, in order to proceed with this hearing, since the tenant was not in attendance. The landlord was angry and upset with each question I asked.

The landlord stated that he wanted to speak to the person at the RTB who told him to serve the application on the door. He stated that he did not know who he spoke to. I notified him that he could call the RTB after this hearing was over, and speak to the person, if he knew the person's name. I informed him that RTB information officers are not lawyers, they do not provide legal advice to parties, they do not tell parties what to do, and they do not force parties to do anything. I notified him that, by his own admission, he discussed several options with the information officer, including serving the landlord's application on the door, to the tenant in person, and to the tenant's lawyer.

When I informed the landlord about my decision verbally during this hearing, he became angrier and continued yelling at me. I cautioned the landlord, but he continued with this behaviour. He said: "I'm going to speak to a manager, you guys think you're untouchable, I'm not going to let this go." When I explained my decision to dismiss for service, he stated: "I don't need a lecture on service from you."

The landlord asked for my name repeatedly at the end of this hearing. I notified the landlord of my surname at the beginning of this hearing. I repeated my surname and spelling approximately four times to the landlord at the end of this hearing. I informed the landlord that my surname would also be on a copy of this decision that would be sent to the landlord after the hearing was over.

The landlord continued yelling at me and interrupting me. I cautioned the landlord repeatedly, but he continued with this behaviour. Therefore, after 9 minutes in this hearing, at 9:39 a.m., I thanked the landlord for attending the hearing and informed him that I was ending the conference. The landlord was still yelling at me when I informed him about the above information.

I caution the landlord to not engage in the same inappropriate behaviour at any future hearings at the RTB, as this behaviour will not be tolerated, and he may be excluded from future hearings. In that case, a decision will be made in the absence of the landlord.

### Conclusion

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the landlord's application is 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: August 05, 2021

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Residential Tenancy Branch