



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **OPC**

### Introduction

The Landlord sought an order of possession for the Landlord's notice to end tenancy for cause pursuant to sections 47 and 62 of the *Residential Tenancy Act* (the "Act").

The hearing was conducted via teleconference. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord and I were the only ones who had called into this teleconference.

The Landlord said he was the only person in the call, and he provided affirmed testimony. The Tenant did not attend the hearing.

The Landlord was advised that Rule 6.11 of the Residential Tenancy Branch Rules of Procedure prohibits the recording of dispute resolution hearings. The Landlord testified that he was not recording this dispute resolution hearing.

As only the Landlord attended the hearing, I asked the Landlord to provide information on how he served the Tenant with the Dispute Resolution Proceeding Package (the "Notice"). The Residential Tenancy Branch issued the Notice on June 8, 2021 to the Landlord with instructions to serve it on the Tenant by June 11, 2021. The Landlord confirmed he got the Notice and he served it according to the rules.

### Background and Evidence

I have reviewed all written and oral evidence and submissions before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

This periodic tenancy began in May 2021. Monthly rent is \$1,200.00 payable on the first day of each month. A security deposit of \$600.00 was collected at the start of the tenancy and is still held by the Landlord. The Landlord stated that the Tenant only paid rent on May 1, and since then, he has not received any other rental payments.

The Landlord testified that he served the Tenant with the Notice in person, but he did not know the date this occurred. The Landlord said that his property manager, K, witnessed him serve the Tenant. The Landlord did not know K's last name, and K did not attend the hearing to confirm service. The Landlord did not provide a proof of service of the Notice in his documentary evidence package. He also said a former secretary in his office, by the name of F, knew this information. F no longer works for the Landlord. F did not attend the hearing to provide testimony in this regard.

The Landlord said that the Tenant remains in the rental unit, but that he hides from the Landlord.

### Analysis

This matter concerns a One Month Notice to End Tenancy for Cause. The Landlord also sought an Order of Possession.

Rule 3.5 of the Rules of Procedure provides as follows:

**3.5 Proof of service required at the dispute resolution hearing:** At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure.

Based on the evidence provided, I find that the Landlord did not provide sufficient proof that the Tenant was served with the Notice according to the Act or the regulations.

The purpose of service, one of natural justice, is to give notice to the other person of an important issue that needs to be addressed, and how and when they can participate in the decision-making process. The Landlord's oral testimony was vague as to when and how the Tenant was served with the Notice.

The Tenant must know the case against them, and when and where they can respond to the claims; otherwise, a breach of natural justice ensues and procedural fairness in the process is lost. As the Landlord failed to prove service of the dispute resolution package, I dismiss the Landlord's application for dispute resolution with leave to re-apply.

I take this opportunity to inform the Landlord that service can be perfected even in circumstances where a person attempts to refuse service as per the Residential Tenancy Branch Rules of Procedure 3.4:

**3.4 If a respondent avoids service:** If a respondent appears to be avoiding service or cannot be found, the applicant may apply to the Residential Tenancy Branch directly or through a Service BC Office for an order for substituted service.

An application for substituted service must show that the applicant made reasonable attempts to serve the respondent or provide evidence that shows the other party is unlikely to receive material if served according to the Act.

An application for substituted service that is made at the hearing may result in an adjournment.

The Landlord can speak with an Information Officer at the Residential Tenancy Branch office for assistance with service in these kinds of situations (1-800-665-8779).

### Conclusion

The Landlord's application for dispute resolution is dismissed with leave to re-apply. Leave to re-apply does not extend any deadlines established pursuant to the Act, including the deadlines for applying for dispute resolution.

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: September 28, 2021

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Residential Tenancy Branch