



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The tenant applied for cancellation of the One Month Notice to End Tenancy for Cause (the Notice), pursuant to section 47.

Tenant KH (the tenant) and Landlord RD (the landlord) attended the hearing. The tenant was assisted by advocate CS. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

At the outset of the hearing all the parties were clearly informed of the Rules of Procedure, including Rule 6.10 about interruptions and inappropriate behaviour, and Rule 6.11, which prohibits the recording of a dispute resolution hearing. All the parties confirmed they understood the Rules of Procedure.

Per section 95(3) of the Act, the parties may be fined up to \$5,000.00 if they record this hearing: "A person who contravenes or fails to comply with a decision or an order made by the director commits an offence and is liable on conviction to a fine of not more than \$5,000.00."

### Preliminary Issue - Adjournment

Rule 7.8 of the Residential Tenancy Branch Rules of Procedure states that at any time after the dispute resolution hearing begins, the arbitrator may adjourn the dispute resolution hearing to another time.

After 79 minutes of hearing time, I adjourned the hearing due to time constraints. The hearing will be reconvened at a future date.

### Preliminary Issue – Service of evidence

The tenant submitted 43 documents and the landlord submitted 48 documents into evidence. Some of the documents are PDF files with several pages.

During the 79 minutes hearing, the parties struggled to find the evidence documents, as the pages are not numbered and there is a large number of document files.

The evidence must strictly follow Rule of Procedure 3.7:

All documents to be relied on as evidence must be clear and legible.

To ensure a fair, efficient and effective process, identical documents and photographs, identified in the same manner, must be served on each respondent and uploaded to the

Online Application for Dispute Resolution or submitted to the Residential Tenancy Branch directly or through a Service BC Office.

For example, photographs must be described in the same way, in the same order, such as: "Living room photo 1 and Living room photo 2".

To ensure fairness and efficiency, the arbitrator has the discretion to not consider evidence if the arbitrator determines it is not readily identifiable, organized, clear and legible.

Considering the large amount of evidence submitted, and that the evidence is not organized, I order both parties to serve all the evidence again.

Per Rule of Procedure 6.6, the landlord has the onus to prove the reasons to end the tenancy. Thus, I order the landlord to serve the evidence first.

The landlord must serve his evidence no later than 30 calendar days after the date of this decision. The tenant must serve his response evidence no later than 45 calendar days after the date of this decision. All the pages must be sequentially numbered and there must be an index.

The parties must submit all their evidence in a single file, per Rules of Procedure 3.13 and 3.15.

As I am ordering the parties to serve the evidence again, I authorize the parties to serve evidence not served prior to the hearing.

Witnesses' attendance and format of the adjourned hearing

The landlord affirmed he would like to hear witnesses. The parties are responsible for having their witnesses available for the hearing, per Rule of Procedure 7.19.

The tenant requested that the adjourned hearing be held in person, as the tenant would like to cross-examine the witnesses.

Rule of Procedure 6.3 states:

A dispute resolution hearing may be held at the discretion of the Residential Tenancy Branch:

- a) by telephone conference call;
- b) in person;
- c) in writing;
- d) by video conference or other electronic means; or
- e) any combination of the above.

I find the next hearing can be held by telephone conference call, as the tenant may cross-examine the witnesses in a telephone hearing, per Rule of Procedure 7.21.

Permitted Modes of Service of Documents and Proof of Service

The attending parties confirmed their email addresses during the hearing and agreed to be served documents via email. The attending parties' email addresses are recorded on the cover page of this decision.

The parties must serve their evidence via email.

The parties must submit to the RTB proof of service of documents served via email. The proof of service must be uploaded to the RTB and it must include a print out of the email sent, showing the full email address of the parties served and the date it was sent.

The proof of services must be submitted to the RTB at the latest three calendar days after the emails were sent.

I note that the deadlines, methods of service and proof of service in this decision differ from those in the Rules of Procedure. These orders in this decision regarding deadlines, methods of service and proof of service are made in light of the amount of evidence

submitted to this application. Where the deadlines, methods of service and proof of service in this decision and the Rules of Procedure differ, the ones in this decision prevail.

### Conclusion

Based on the above:

- **I order** this hearing will be reconvened in accordance with the notice of hearing document attached to this decision;
- **I order** that this is not an opportunity for either party to amend this application for dispute resolution;
- **I order** that this is not an opportunity for either party to submit an additional application for dispute resolution to be crossed or joined with this application for dispute resolution currently before me;
- **I order** the landlord to serve his evidence no later than 30 calendar days after the date of this decision.
- **I order** the tenant to serve his response evidence no later than 45 calendar days after the date of this decision.
- **I order** the parties to submit all their evidence in a single file, per Rules of Procedure 3.13 and 3.15
- **I order** the parties must serve the documents via email.
- **I order** the proof of services must be submitted to the RTB at the latest three calendar days after the emails were sent.

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: October 17, 2022

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Residential Tenancy Branch