



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **ET, FFL**

### Introduction

This hearing dealt with an application filed by the landlord pursuant the *Residential Tenancy Act* (the “Act”) for:

- An order to end the tenancy early due to circumstances where it would be unreasonable, or unfair to the landlord or other occupants to wait for a Notice to End Tenancy for Cause to take effect pursuant to section 56; and
- Authorization to recover the filing fee from the other party pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open throughout the hearing which commenced at 9:30 a.m. and ended at 9:41 a.m. 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 landlords were represented at the hearing by property manager, MD. The landlord testified that she served the tenants with the Notice of Expedited Hearing by posting a copy to the tenants’ door on November 25, 2022. The landlord testified she believes she uploaded a proof of service document to the Residential Tenancy Branch dispute management system; however, it was not before me for this hearing.

### Preliminary Issue – service of Notice of Expedited Hearing

The application filed by the landlord seeks an early end to tenancy which qualifies for an expedited hearing under Rule 10 of the Residential Tenancy Branch Rules of Procedure.

Rule 10.3 states:

#### **10.3 Serving the notice of dispute resolution proceeding package**

The applicant must, within one day of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute Resolution;
- the Respondent Instructions for Dispute Resolution;
- an Order of the director respecting service;
- the Expedited Dispute Resolution Process Fact Sheet (RTB-114E) provided by the Residential Tenancy Branch; and
- evidence submitted to the Residential Tenancy Branch online or in person, or through a Service BC Office with the Application for Dispute Resolution, in accordance with Rule 10.2 [Applicant's Evidence Relating to an Expedited Hearing].

Rule 10.9 states:

### **10.9 Proof of Service**

An applicant must provide proof of service by submitting RTB 9 Proof of Service – Notice of a Dispute Resolution form one day after serving the Notice of Dispute Resolution Proceeding Package and at least two days before the hearing. Failure to do this may result in the application being dismissed or the hearing being rescheduled or adjourned to a later date.

Rule 3.5 states:

### **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.

Guidelines for Expedited Hearings are found in Residential Tenancy Branch Policy Guideline PG-51 [Expedited Hearings]. Under the section, Serving Documents Related to an Expedited Hearing, it states:

**The director has issued a [standing order](#) on service establishing the methods of service that parties to an expedited hearing must use, unless ordered otherwise by the director.**

The director may require an applicant to confirm the method of service they will use to serve the application documents and evidence on the respondent

before setting the application down for an expedited hearing. Once served, the applicant must complete an **#RTB – 9 Proof of Service: Notice of Expedited Hearing - Dispute Resolution Proceeding** form and submit it to the online intake system, the Residential Tenancy Branch, or a Service BC office at least two days before the hearing.

Failure to serve the respondent as required or as ordered by the director, or to submit the #RTB – 9 Proof of Service form, may result in the application being dismissed or the hearing being adjourned to a later date.

Both the policy guideline and Rule 10.9 are explicit and clear, the landlord must file a form #RTB-9 Proof of Service: Notice of Expedited Hearing – Dispute Resolution Proceedings form. This form must be provided to me one day after serving the Notice of Expedited Hearing or, at the very latest, two days before the hearing. The landlord did not provide this document to me and was unable to demonstrate to my satisfaction that the tenants received the Notice of Expedited Hearing. Consequently, I dismiss the landlord's application seeking an early end to tenancy with leave to reapply.

#### Conclusion

The application is dismissed with leave to reapply. Leave to reapply 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: December 12, 2022

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Residential Tenancy Branch