



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding WEST FRASER HOLDINGS LTD  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes      CNC

### Introduction

The Tenant filed an Application for Dispute Resolution (the “Application”) on February 15, 2022 seeking cancellation of a notice to end tenancy served by the Landlord. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on December 19, 2022.

The Tenant did not attend the hearing, although the left the teleconference hearing connection open until 9:38am to enable the Tenant to call in to this teleconference hearing scheduled for 9:30am. I confirmed the correct call-in number and participant code was provided in the Notice of Dispute Resolution Proceeding document. I also confirmed throughout the duration of the call that the Landlord was not in attendance.

Rule 7.3 of the *Residential Tenancy Branch Rules of Procedure* provides that if a party or their agent fails to attend the hearing, the arbitrator may conduct the hearing in the absence of that party or dismiss the application without leave to reapply.

Additionally, the Landlord agent who attended the call stated they did not receive notice from the Tenant directly about this hearing. They received a courtesy reminder about the hearing from the Residential Tenancy Branch on December 5, 2022.

The *Residential Tenancy Branch Rules of Procedures*, Rule 3, provides the rules on serving the application and hearing information. This is to ensure the objective of a fair, efficient, and consistent process for resolving disputes. Rule 3.1 sets the timeline of initial service after an application:

The applicant must, **within three days** 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:

- a) the Notice of Dispute Resolution Proceeding . . .
- b) the Respondent Instructions for Dispute Resolution;
- c) the dispute resolution process fact sheet (RTB-114) . . . provided by the Residential Tenancy Branch; and
- d) any other evidence submitted to the Residential Tenancy Branch . . .

One form that is provided to the parties in this process is the *Residential Tenancies Fact Sheet – The Dispute Resolution Process* (RTB-114). This form sets out this three-day timeline.

Additionally, the *Act* s. 59(3) sets out that “a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it. . .”

I conclude the Tenant did not serve the Notice to the Landlord in line with the *Rules of Procedure* and the *Act*. This prejudiced the Landlord as the respondent in this hearing. For this reason, I dismiss the Tenant’s Application.

The Landlord who attended the hearing gave a brief history of the matter and confirmed the tenancy already ended. For this reason I dismiss the Tenant’s Application without leave to reapply.

### Conclusion

As the applicant did not properly serve the Landlord with the Notice for this hearing, I dismiss the application in its entirety. The tenancy has ended; therefore, I dismiss this application without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: December 19, 2022

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Residential Tenancy Branch