

Residential Tenancy Branch
Rules of Procedure

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Definitions

- Act** the *Residential Tenancy Act* or *Manufactured Home Park Tenancy Act*, as applicable.
- Adjournment** the determination by an arbitrator that a dispute resolution proceeding will be reconvened at a later date, either at the request of one or both of the parties, or on the arbitrator's own initiative.
- Agent** a person appointed by a party to act on that party's behalf.
- Applicant** a landlord or tenant who applies for dispute resolution by completing an Application for Dispute Resolution, having it accepted by the Residential Tenancy Branch and paying any required fee.
- Cross-application** an Application for Dispute Resolution made to counter an existing Application for Dispute Resolution or made in response to a related Application for Dispute Resolution.
- Days**
- a) If the time for doing an act falls or expires on a holiday, the time is extended to the next day that is not a holiday.
 - b) If the time for doing an act in a business office falls or expires on a day when the office is not open during regular business hours, the time is extended to the next day that the office is open.
 - c) In the calculation of time expressed as clear days, weeks, months or years, or as "at least" or "not less than" a number of days, weeks, months or years, the first and last days must be excluded.
 - d) In the calculation of time not referred to in subsection (c), the first day must be excluded and the last day included.
- Decision** a conclusion or determination of the arbitrator which legally resolves the matters outlined in the Application for Dispute Resolution, including orders, if necessary to implement the decision.
- Dispute resolution proceeding** a legal process initiated by a landlord or a tenant by filing by an Application for Dispute Resolution for the purpose of obtaining a legally binding decision from an independent decision-maker, including:
- a) a proceeding conducted by an arbitrator that resolves disputes without a formal hearing, and after which the arbitrator makes a decision and/or order; and
 - b) a formal dispute resolution proceeding at which an arbitrator will give the parties to the dispute an opportunity to present evidence and argument and to question the other party, and after which the arbitrator makes a decision and/or order.
- At the discretion of the director, a dispute resolution proceeding may be conducted by conference call, through written submissions or in person.

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Evidence	any type of proof presented by the parties at a dispute resolution proceeding in support of the case, including: <ul style="list-style-type: none">• written documents, such as the tenancy agreement, letters, printed copies of emails, receipts, pictures and the sworn or unsworn statements of the witnesses;• photographs, video recordings, audio recordings; and• oral statements of the parties or witnesses given under oath or affirmation.
In writing	except where an original document is required by the arbitrator, printed documents or documents to be submitted in writing and may be submitted by fax or by email.
Party	the applicant or respondent named on the Application for Dispute Resolution or added to the application by an arbitrator, and an officer representing a business named in the application, but does not include witnesses, family members, and other persons not named on the application. “Party” may include multiple applicants or respondents.
Reasons	the grounds and conclusions on which an arbitrator has based a decision, including both findings of fact and law.
Relevant	evidence is relevant if it relates to or bears upon the matter at hand, or tends to prove or disprove an alleged fact. Argument is relevant if it relates to or bears upon the matter at hand.
Respondent	the landlord or tenant against whom the Application for Dispute Resolution has been made; sometimes called the “other party.”
Schedule	the act of the Residential Tenancy Branch, at the time an application is made, that designates a time, date, and place for the dispute resolution hearing to be commenced, including a determination whether the dispute resolution hearing will be conducted by conference call, through written submissions or in person. <i>Reschedule</i> is the act of the Residential Tenancy Branch to designate a different time, date and place for the dispute resolution hearing to commence or be reconvened, including a determination whether the rescheduled dispute resolution hearing will be conducted by conference call, through written submissions or in person.
Serve	the formal legal manner of giving a party required documents and evidence as set out in the Act.
Substituted service	an alternative method of service authorized by an arbitrator where the party has made reasonable efforts to serve but has been unable to serve documents, notices, or decisions in accordance with the Act.

Rule 1 – Objective

1.1 Objective

The objective of the Rules of Procedure is to ensure a fair, efficient and consistent process for resolving disputes for landlords and tenants.

Rule 2 – Making a claim

2.1 Starting an Application for Dispute Resolution

To make a claim, a person must complete and submit an Application for Dispute Resolution.

2.2 Identifying issues on the Application for Dispute Resolution

The claim is limited to what is stated in the application.

See also Rule 6.2 [*What will be considered at a dispute resolution hearing*].

2.3 Related issues

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

Filing an application

2.4 Submit Application for Dispute Resolution

An applicant for dispute resolution must submit an Application for Dispute Resolution to the Residential Tenancy Branch directly or through a Service BC office with the required fee or fee waiver documents. Applicants who submit an online Application for Dispute Resolution and choose to pay the fee in person must complete payment within three business days of submitting the application.

2.5 Documents that must be submitted with an Application for Dispute Resolution

To the extent possible, at the same time as the application is submitted to the Residential Tenancy Branch directly or through a Service BC office, the applicant must submit:

- a detailed calculation of any monetary claim being made;
- a copy of the Notice to End Tenancy, if the applicant seeks an order of possession or to cancel a Notice to End Tenancy; and
- copies of all other documentary and digital evidence to be relied on at the hearing.

When submitting applications online, the applicant must submit the required documents to the Residential Tenancy Branch directly or through a Service BC office within three business days of submitting the online Application for Dispute Resolution.

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The only exception are for urgent applications or when the matter is subject to a time constraint, such as an application under *Residential Tenancy Act* section 38, 54 or 56 or an application under the *Manufactured Home Park Tenancy Act* section 47 or 49.

For these applications, the applicant must submit all evidence with the Application for Dispute resolution or within three business days of submitting an online Application for Dispute Resolution.

2.6 Point at which an application is considered to have been made

The Application for Dispute Resolution has been made when it has been submitted and the fee is paid or all documents for a fee waiver are submitted to the Residential Tenancy Branch directly or through a Service BC office.

2.7 One or more respondents

An applicant(s) may name more than one respondent in the Application for Dispute Resolution.

2.8 Maximum amount of monetary claim

An applicant who has a claim amounting to more than \$35,000.00 may abandon the part of the claim that exceeds \$35,000 so that the balance of the claim may be heard by the arbitrator.

2.9 No divided claims

An applicant may not divide a claim.

2.10 Joining applications

Applications for Dispute Resolution may be joined and heard at the same hearing so that the dispute resolution process will be fair, efficient and consistent. In considering whether to join applications, the Residential Tenancy Branch will consider the following criteria:

- a) whether the applications pertain to the same residential property or residential properties which appear to be managed as one unit;
- b) whether all applications name the same landlord;
- c) whether the remedies sought in each application are similar; or
- d) whether it appears that the arbitrator will have to consider the same facts and make the same or similar findings of fact or law in resolving each application.

Making a cross-application for dispute resolution

2.11 Filing an Application for Dispute Resolution to counter a claim

To counter an existing Application for Dispute Resolution or in response to a related Application for Dispute Resolution, respondents may make a cross-application by filing their own Application for Dispute Resolution.

The issues identified in the cross-application must be related to the issues identified in the application being countered or responded to.

A party submitting a cross-application is considered the cross-applicant and must apply as soon as possible and so that the respondent to the cross-application receives the documents set out in Rule 3.1 [*Documents that must be served with the hearing package*] not less than 14 days before the hearing and so that the service provisions in Rule 3.15 [*Respondent's evidence provided in single package*] can be met.

2.12 Identify file being countered

A cross-applicant making a cross-application must identify the application they are countering or responding to.

2.13 Point at which a cross-application is considered to have been made

A cross-application is made when it has been submitted and the fee is paid or all documents for a fee waiver are provided to the Residential Tenancy Branch directly or through a Service BC office.

2.14 Scheduling a cross-application for dispute resolution

When the requirements of Rules 2.11, 2.12 and 2.13 have been met, and it is possible to satisfy Rule 3.3 [*Evidence for cross-application for dispute resolution*], the Residential Tenancy Branch will schedule the cross-application hearing with the same arbitrator for the same date and time as the hearing for the matter being countered or responded to.

Rule 3 – Serving the application and submitting and exchanging evidence

3.1 Documents that must be served with the hearing package

The applicant must, within 3 days of the hearing package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the Application for Dispute Resolution;
- b) the notice of dispute resolution proceeding letter provided to the applicant by the Residential Tenancy Branch;
- c) the dispute resolution proceeding information package provided by the Residential Tenancy Branch; and

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- d) any other evidence submitted to the Residential Tenancy Branch directly or through a Service BC office with the Application for Dispute Resolution, in accordance with Rule 2.5 [*Documents that must be submitted with an Application for Dispute Resolution*].

3.2 Evidence relating to an early end to a tenancy

When a landlord is seeking an early end to the tenancy, the landlord must submit to the Residential Tenancy Branch directly or through a Service BC office all evidence with the Application for Dispute Resolution, or, when applying for dispute resolution online, the next day. All evidence to be relied on at the hearing must be served on the respondent with the hearing package described in Rule 3.1.

3.3 Evidence for cross-application for dispute resolution

Evidence supporting a cross-application must:

- be submitted at the same time as the application is submitted, or within three business days of submitting an online Application for Dispute Resolution;
- be served on the other party at the same time as the hearing package for the cross-application is served; and
- be received by the other party and the Residential Tenancy Branch directly or through a Service BC office not less than 14 days before the hearing.

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.

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 hearing package and all evidence as required by the Act and these Rules of Procedure.

3.6 Evidence must be relevant

All evidence must be relevant to the claim(s) being made in the Application(s) for Dispute Resolution.

The arbitrator has the discretion to decide whether evidence is or is not relevant to the issues identified on the application and may decline to hear evidence that they determine is not relevant.

3.7 Evidence must be organized, clear and legible

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

Documents must be legible copies, not photographs of printed material.

To ensure a fair, efficient and effective process, an identical package of documents and photographs, which are identified in the same manner and are placed in the same order, must be served on each respondent and submitted to the Residential Tenancy Branch directly or through a Service BC office.

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.

3.8 Original evidence

At any time during the dispute resolution process the parties must be prepared to supply an original of any document, if requested to do so by the arbitrator.

The arbitrator may direct that the original be placed into evidence, rather than a copy, or may accept as evidence a legible copy of the document.

3.9 Physical evidence

No physical evidence will be accepted.

3.10 Digital evidence

Digital evidence includes only photographs, audio recordings, and video recordings. Photographs of printable documents, such as e-mails or text messages, are not acceptable as digital evidence.

Digital evidence must be accompanied by a printed description, including:

- a table of contents;
- identification of photographs, such as a logical number system;
- a statement for each digital file describing its contents;
- a time code for the key point in each audio or video recording; and
- a statement as to the significance of each digital file.

To ensure a fair, efficient and effective process, identical digital evidence and the accompanying printed description must be served on each respondent and submitted to the Residential Tenancy Branch directly or through a Service BC office.

The format of digital evidence must be accessible to all parties. Before the hearing, the party submitting the digital evidence must determine that the other party and the Residential Tenancy Branch have playback equipment or are otherwise able to gain access to the evidence.

If a party is unable to access the digital evidence, the arbitrator may determine that the digital evidence will not be considered.

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If a party asks another party about their ability to gain access to a particular format, device or platform, the other party must reply as soon as possible, and in any event so that all parties have 7 days with full access to the evidence and the party submitting and serving digital evidence can meet the requirements for filing and service established in Rules 3.1, 3.2, 3.14 and 3.15.

Regardless of how evidence is accessed during a hearing, the party providing digital evidence must provide the Residential Tenancy Branch and each respondent with a copy of the evidence on a memory stick, compact disk or DVD for its permanent files.

3.11 Unreasonable delay

Evidence must be served and submitted as soon as reasonably possible.

If the arbitrator determines that a party unreasonably delayed the service of evidence, the arbitrator may refuse to consider the evidence.

3.12 Willful or recurring failure

The arbitrator may refuse to accept evidence if the arbitrator determines that there has been a willful or recurring failure to comply with the Act, Rules of Procedure or an order made through the dispute resolution process, or if, for some other reason, the acceptance of the evidence would prejudice the other party or result in a breach of the principles of natural justice.

3.13 Applicant evidence provided in single package

Where possible, copies of all of the applicant's available evidence must be submitted to the Residential Tenancy Branch directly or through a Service BC office and served on the other party in a single complete package.

An applicant submitting any subsequent evidence must be prepared to explain to the arbitrator why the evidence was not included in the initial evidence package.

3.14 Evidence not submitted at the time of Application for Dispute Resolution

Documentary and digital evidence that is intended to be relied on at the hearing must be received by the respondent and the Residential Tenancy Branch directly or through a Service BC office not less than 14 days before the hearing.

In the event that a piece of evidence is not available when the applicant submits and serves their evidence, the arbitrator will apply Rule 3.17.

3.15 Respondent's evidence provided in single package

Where possible, copies of all of the respondent's available evidence must be submitted to the Residential Tenancy Branch directly or through a Service BC office and served on the other party in a single complete package.

The respondent must ensure documents and digital evidence that are intended to be relied on at the hearing are served on the applicant and submitted to the Residential Tenancy Branch as soon as possible. In all events, the respondent's

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evidence must be received by the applicant and the Residential Tenancy Branch not less than 7 days before the hearing.

In the event that evidence is not available when the respondent submits and serves their evidence, the arbitrator will apply Rule 3.17.

See also Rules 3.7 and 3.10.

3.16 Respondent's proof of service

At the hearing, the respondent must be prepared to demonstrate to the satisfaction of the arbitrator that each applicant was served with all their evidence as required by the Act and these Rules of Procedure.

3.17 Consideration of new and relevant evidence

Evidence not provided to the other party and the Residential Tenancy Branch directly or through a Service BC office in accordance with the Act or Rules 3.1, 3.2, 3.10, 3.14 and 3.15 may or may not be considered depending on whether the party can show to the arbitrator that it is new and relevant evidence and that it was not available at the time that their application was made or when they served and submitted their evidence.

The arbitrator has the discretion to determine whether to accept documentary or digital evidence that does not meet the criteria established above provided that the acceptance of late evidence does not unreasonably prejudice one party or result in a breach of the principles of natural justice.

Both parties must have the opportunity to be heard on the question of accepting late evidence.

If the arbitrator decides to accept the evidence, the other party will be given an opportunity to review the evidence. The arbitrator must apply Rule 7.8 [*Adjournment after the dispute resolution hearing begins*] and Rule 7.9 [*Criteria for granting an adjournment*].

3.18 Evidence not received by the arbitrator

The arbitrator may adjourn a dispute resolution hearing to receive evidence if a party can show that the evidence was submitted to the Residential Tenancy Branch directly or through a Service BC office for the proceeding within the required time limits, but was not received by the arbitrator before the dispute resolution hearing.

3.19 Submitting evidence after the hearing starts

No additional evidence may be submitted after the dispute resolution hearing starts, except as directed by the arbitrator. In providing direction, the arbitrator will:

- a) specify the date by which the evidence must be submitted to the Residential Tenancy Branch directly or through a Service BC office and whether it must be served on the other party; and

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- b) provide an opportunity for the other party to respond to the additional evidence if required.

In considering whether to admit documentary or digital evidence after the hearing starts, the arbitrator must give both parties an opportunity to be heard on the question of admitting such evidence.

Rule 4 – Amending an Application for Dispute Resolution

4.1 Amending an Application for Dispute Resolution

An applicant may amend a claim by:

- completing an Amendment to an Application for Dispute Resolution form; and
- filing the completed Amendment to an Application for Dispute Resolution form and supporting evidence with the Residential Tenancy Branch directly or through a Service BC office.

An amendment may add to, alter or remove claims made in the original application.

As stated in Rule 2.3 [*Related issues*], unrelated claims contained in an application may be dismissed with or without leave to reapply.

See also Rule 3 [*Serving the application and submitting and exchanging evidence*].

4.2 Amending an application at the hearing

In circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing.

If an amendment to an application is sought at a hearing, an Amendment to an Application for Dispute Resolution need not be submitted or served.

4.3 Time limits for amending an application

Amended applications and supporting evidence should be submitted to the Residential Tenancy Branch directly or through a Service BC office as soon as possible and in any event early enough to allow the applicant to comply with Rule 4.6.

4.4 Paying additional fee when amending a claim

Repealed effective January 8, 2016.

4.5 Accepting an Amendment to an Application for Dispute Resolution

The Residential Tenancy Branch or Service BC will accept an Amendment to an Application for Dispute Resolution submitted in accordance with these Rules of Procedure.

4.6 Serving an Amendment to an Application for Dispute Resolution

As soon as possible, copies of the Amendment to an Application for Dispute Resolution and supporting evidence must be produced and served upon each respondent by the applicant in a manner required by section 89 of the *Residential Tenancy Act* or section 82 of the *Manufactured Home Park Tenancy Act* and these Rules of Procedure.

The applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Amendment to an Application for Dispute Resolution and supporting evidence as required by the Act and these Rules of Procedure.

In any event, a copy of the amended application and supporting evidence should be served on the respondents as soon as possible and must be received by the respondent(s) not less than 14 days before the hearing.

See also Rule 3 [*Serving the application and submitting and exchanging evidence*].

4.7 Objecting to a proposed amendment

A respondent may raise an objection at the hearing to an Amendment to an Application for Dispute Resolution on the ground that the respondent has not had sufficient time to respond to the amended application or to submit evidence in reply.

The arbitrator will consider such objections and determine if the amendment would prejudice the other party or result in a breach of the principles of natural justice. The arbitrator may hear the application as amended, dismiss the application with or without leave to reapply, or adjourn the hearing to allow the respondent an opportunity to respond.

Rule 5 – Before the hearing

Rescheduling

5.1 Rescheduling of a dispute resolution hearing by agreement not less than 3 days before the hearing

The Residential Tenancy Branch will reschedule a dispute resolution hearing if signed written consent from both the applicant and the respondent is received by the Residential Tenancy Branch directly or through a Service BC office not less than 3 days before the scheduled date for the dispute resolution hearing.

5.2 If agreement to reschedule the dispute resolution hearing cannot be obtained

When agreement to reschedule a hearing cannot be reached, a party or the party's agent may make a request at the hearing to adjourn the hearing under rule 7.8 [*Adjournment after the dispute resolution hearing begins*].

Summons to attend or produce evidence

5.3 Application for a summons

On the written request of a party or on the director's own initiative, the director may issue a summons. A summons is only issued in cases where the evidence is necessary, appropriate and relevant. A summons will not be issued if a witness agrees to attend or agrees to provide the requested evidence.

A request to issue a summons must be submitted, in writing, to the Residential Tenancy Branch directly or through a Service BC office, and must:

- state the name and address of the witness;
- provide the reason the witness is required to attend and give evidence;
- describe efforts made to have the witness attend the hearing;
- describe the documents or other things, if any, which are required for the hearing; and
- provide the reason why such documents or other things are relevant.

5.4 When a request for a summons may be made

A written request for a summons should be made as soon as possible before the time and date scheduled for a dispute resolution hearing.

In circumstances where a party could not reasonably make their application before a hearing, the arbitrator will consider a request for a summons made at the hearing.

5.5 Witness compensation

When the director issues a summons, the party who has requested the summons must provide the witness with compensation for the reasonable cost of giving that evidence.

When the director issues a summons on his or her own initiative, compensation is not required.

Rule 6 – Pertaining to the hearing in general

6.1 Arbitrator's role

The arbitrator will conduct the dispute resolution process in accordance with the Act, the Rules of Procedure and principles of fairness.

6.2 What will be considered at a dispute resolution hearing

The hearing is limited to matters claimed on the application unless the arbitrator allows a party to amend the application.

The arbitrator may refuse to consider unrelated issues in accordance with Rule 2.3 [*Related issues*]. For example, if a party has applied to cancel a Notice to

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End Tenancy or is seeking an order of possession, the arbitrator may decline to hear other claims that have been included in the application and the arbitrator may dismiss such matters with or without leave to reapply.

6.3 Format of dispute resolution hearing

A dispute resolution hearing may be held:

- 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 at the discretion of the director.

6.4 A party may request that the hearing be held in a specific format

A party may submit a request that a hearing be held in a format other than telephone conference call.

An applicant must submit such a request in writing to the Residential Tenancy Branch directly or through a Service BC office with supporting documentation within three days of the notice of hearing being made available by the Residential Tenancy Branch. A respondent must submit such a request in writing with supporting documentation within three days of receiving the notice of hearing or being deemed to have received the notice of hearing.

6.5 Opportunity to be heard on a request for a specific format

When a party requests that a hearing be held in a format other than the one set by the Residential Tenancy Branch, the Residential Tenancy Branch will give the other party an opportunity to make submissions on the format of the hearing.

6.6 The standard of proof and onus of proof

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

The onus to prove their case is on the person making the claim. In most circumstances this is the person making the application. However, in some situations the arbitrator may determine the onus of proof is on the other party. For example, the landlord must prove the reason they wish to end the tenancy when the tenant applies to cancel a notice to end tenancy.

6.7 Party may be represented or assisted

A party to a dispute resolution hearing may be represented by an agent or a lawyer and may be assisted by an advocate, an interpreter, or any other person whose assistance the party requires in order to make his or her presentation.

6.8 Proof of authority to act

The arbitrator may require an agent to provide proof of his or her appointment to represent a party and may adjourn a dispute resolution hearing for this purpose.

6.9 Communication with the arbitrator

Direct communication with the arbitrator is restricted to the hearing or when otherwise instructed by the arbitrator.

See also Rule 3.19 [*Submitting evidence after the hearing starts*].

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.

Recording of hearings

6.11 Recording prohibited

Persons are prohibited from recording dispute resolution hearings, except as allowed by Rule 6.12. Prohibited recording includes any audio, photographic, video or digital recording.

6.12 Official transcript

A party requesting an official transcript by an accredited Court Reporter must make a written request stating the reasons for the request to the other party and to the Residential Tenancy Branch directly or through a Service BC office not less than 7 days before the hearing.

The director will determine whether to grant the request and will provide written reasons to all parties and issue any necessary orders.

If permission is granted, the party making the request must:

- a) prior to the hearing, provide the Residential Tenancy Branch with proof of the Court Reporter's accreditation;
- b) make all necessary arrangements for attendance by the accredited Court Reporter and their necessary equipment;
- c) pay the cost of the accredited Court Reporter's attendance at the dispute resolution hearing;
- d) pay the cost of the Court Reporter's services and the cost of transcripts; and
- e) provide all parties and the Residential Tenancy Branch with official copies of the transcript.

6.13 Restricted use of recordings

Transcripts may not be used for any purpose other than the proceeding, a review or any court proceeding.

Rule 7 – During the hearing

7.1 Commencement of the dispute resolution hearing

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

7.2 Delay in the start of a hearing

In the event of a delay of a start of a conference call hearing, each party must stay available on the line to commence the hearing for 30 minutes after the time scheduled for the start of the hearing.

In the event of a delay of a face-to-face hearing, unless otherwise advised, the parties must remain available to commence the hearing at the hearing location for 30 minutes after the time scheduled for the start of the hearing.

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

7.4 Evidence must be presented

Evidence must be presented by the party who submitted it, or by the party's agent.

If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

Introductory matters

7.5 Introduction to the dispute resolution hearing

At the beginning of the dispute resolution hearing, the arbitrator will explain how the dispute resolution hearing will proceed and answer any relevant questions the parties may have about the hearing process.

7.6 Identification of people present at a dispute resolution hearing

Each participant must identify all people who are present with them at the start and anyone who joins them at any time during a hearing.

7.7 Preliminary matters

At the start of the hearing, the arbitrator will consider any preliminary matters.

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Preliminary matters include, but are not limited to, questions of jurisdiction, substituted service, adjournment, adding a related matter, amending the application, and summoning a witness to provide evidence.

Adjourning a hearing

7.8 Adjournment after the dispute resolution hearing begins

At any time after the dispute resolution hearing begins, the arbitrator may adjourn the dispute resolution hearing to another time.

A party or a party's agent may request that a hearing be adjourned.

The arbitrator will determine whether the circumstances warrant the adjournment of the hearing.

7.9 Criteria for granting an adjournment

Without restricting the authority of the arbitrator to consider other factors, the arbitrator will consider the following when allowing or disallowing a party's request for an adjournment:

- the oral or written submissions of the parties;
- the likelihood of the adjournment resulting in a resolution;
- the degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment;
- whether the adjournment is required to provide a fair opportunity for a party to be heard; and
- the possible prejudice to each party.

7.10 Mandatory attendance

If the dispute resolution hearing is adjourned, the arbitrator will order the parties to attend on the date when the dispute resolution hearing will be reconvened.

If a party does not attend the reconvened hearing at the scheduled time, the arbitrator may commence, continue and conclude the hearing. Pursuant to Rule 7.3, the arbitrator may issue a decision and order in the absence of a party.

7.11 Refusing a request for adjournment

If the arbitrator determines that an adjournment should not be granted, the dispute resolution hearing will proceed as scheduled.

When a request for adjournment is refused, reasons for refusing the request will be provided in the written decision.

Adding additional parties

7.12 Request that another person be added to a proceeding

In exceptional circumstances, a party may make an oral request at the hearing to add another party.

7.13 Determining that another person be added as a party

The arbitrator will decide whether a person will be added as a party.

In addition, the arbitrator may unilaterally determine that another person should be added as a party.

The newly added party will be added to the proceedings without the need for further revision of the Application for Dispute Resolution.

All Rules of Procedure apply to the newly added party, with the exception of Rules establishing timeframes for the exchange of evidence.

As soon as possible after a party is added to a proceeding, the original applicant(s) and respondent(s) must serve their evidence on the newly added party.

The newly added party must, as soon as possible, serve their evidence on the original applicant(s) and respondent(s) and submit it to the Residential Tenancy Branch directly or through a Service BC office, and in any event not less than 7 days before the reconvened hearing.

7.14 Making orders regarding service

The arbitrator may make orders in relation to service of necessary documents, such as a copy of the Application for Dispute Resolution, a copy of the Notice of Proceeding and information on the Dispute Resolution Process, to the other person.

7.15 Issuing orders affecting an added party

When a party has been added to a proceeding and has been served with notice of the proceeding, the arbitrator may issue decisions and orders affecting that party whether or not they participate in the hearing.

7.16 Notice to materially-affected tenant(s)

The arbitrator may determine, in accordance with the Act, that a tenant may be materially affected by the decision or an order reached through a dispute resolution proceeding. When such a determination is made, the arbitrator may adjourn the dispute resolution hearing to allow the materially-affected tenant an opportunity to participate in the proceeding.

The arbitrator will direct the applicant and/or the respondent to serve the affected tenant with a copy of the Application for Dispute Resolution, a copy of the notice of the date and time scheduled for the continuation of the dispute resolution proceeding, and copies of all relevant evidence.

Presentation of evidence at the hearing

7.17 Presentation of evidence

Each party will be given an opportunity to present evidence related to the claim. The arbitrator has the authority to determine the relevance, necessity and appropriateness of evidence.

See Rule 3 [*Serving the application and submitting and exchanging evidence*].

7.18 Order of presentation

The applicant will present their case and evidence first unless the arbitrator decides otherwise, or when the respondent bears the onus of proof.

One instance when the respondent bears the onus of proof is where a tenant applies to set aside a Notice to End Tenancy. In such a case, the hearing will begin with the landlord presenting first.

7.19 Witnesses' attendance at the dispute resolution hearing

Parties are responsible for having their witnesses available for the dispute resolution hearing.

A witness must be available until he or she is excused by the arbitrator or until the dispute resolution hearing ends.

7.20 Exclusion of witnesses and others

The arbitrator may exclude witnesses from the dispute resolution hearing until called to give evidence.

The arbitrator may, when they consider it appropriate to do so, exclude any other person from the dispute resolution hearing.

Questions regarding evidence

7.21 Cross-examination

When evidence given at a hearing is disputed by a party, the arbitrator may allow the party an opportunity to question:

- the other party's evidence; and/or
- the other party's witness with respect to their testimony.

7.22 Questions asked through the arbitrator

Each party may be required to ask questions through the arbitrator:

- in order to ensure the relevancy of evidence; or
- if a party presents rude, improper or irrelevant questions when given the opportunity to directly question another party.

7.23 Questions by the arbitrator

The arbitrator may ask questions of a party or witness if necessary:

- to determine the relevancy or sufficiency of evidence;
- to assess the credibility of a party or a witness; or
- to otherwise assist the arbitrator in reaching a decision.

Rule 8 – Conclusion of a dispute resolution hearing

8.1 Ending the dispute resolution hearing

The arbitrator determines when the hearing has ended.

The arbitrator has the discretion to receive additional evidence after the hearing has ended.

See also Rule 3.19 [*Submitting evidence after the hearing starts*].

8.2 Reconvening the dispute resolution hearing

At the arbitrator's discretion, the hearing may be reconvened prior to concluding the proceeding.

8.3 Concluding the dispute resolution proceeding

The proceeding concludes with the issuance of a final and binding written decision and/or order(s).

8.4 Decision and orders based on a settlement

Where the parties have reached a settlement in the hearing, the arbitrator will end the proceeding by recording the settlement in the form of a written decision and/or order(s) that reflects the terms of the settlement.

8.5 Dispute resolution hearing ended without the parties reaching agreement

After the end of a dispute resolution hearing in which the parties have not reached a settlement, the arbitrator will make a final and binding written decision.

8.6 Service of order

If the arbitrator sets conditions for service of a decision or order, the decision or order will set those conditions out.

8.7 Original decision

The Residential Tenancy Branch will provide an original decision, signed by pen or through electronic means to the first applicant and first respondent listed on the application form, for sharing with the other applicant(s)/respondent(s), or as otherwise determined during the hearing.

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8.8 Original order

The Residential Tenancy Branch will provide a sufficient number of original orders, signed by pen or through electronic means, to the recipient of the order to permit service and enforcement through the court.

Rule 9 – Miscellaneous

9.1 Non-compliance will not stop or nullify a proceeding

Failure to comply with these Rules of Procedure will not in itself stop or nullify a proceeding, a step taken, or any decision or order made in the proceeding.

9.2 Conflicts between the Rules of Procedure and the Act

Where the Act and the Rules of Procedure conflict, the Act applies.

9.3 Effective date of these Rules of Procedure

These Rules of Procedure take effect on October 26, 2015 and apply to applications for dispute resolution that are made to the Residential Tenancy Branch directly or through a Service BC office on or after October 26, 2015, in-person, by fax or online, and to the dispute resolution proceedings that are commenced by those applications.

9.4 Continued application of the Rules of Procedure dated June 28, 2014

The former Rules of Procedure that were published on June 28, 2014 continue in effect and will apply to:

- a) applications for dispute resolution that were made prior to October 26, 2015;
- b) cross-applications made on or after October 26, 2015 in response to an application that was made before October 26, 2015; and
- c) applications for dispute resolution that were made prior to October 26, 2015 and amended after these Rules of Procedure came into effect, except to the extent that the arbitrator determines that the application of the former Rules of Procedure would prejudice the party who applied for dispute resolution, or would result in a breach of the principles of natural justice.

In determining the extent to which these Rules of Procedure should be applied, the arbitrator must allow each of the parties the opportunity to make submissions about the extent of prejudice that might result from an application of these Rules of Procedure or the former Rules.

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Changes to Rules of Procedure

Section	Change	Notes	Effective Date
4.4	rep	Repealed pursuant to Order in Council 828.	2016-01-08, 4:00 p.m.
4.6	am	Amended to clarify that amendments must be served under the provisions for special documents.	2016-10-28
4.7	am	Amended to correct inadvertent omission (dismiss the application).	2016-10-28
2.8	am	Claim amount changed pursuant to Order in Council 166.	2017-06-01

Change notations

am = text amended or changed

del = text deleted

rep = rule repealed

new = new section added