



Residential Tenancy Branch

Guide to the Dispute Resolution Process

Guide One: *Preparing for the Hearing*

1

Introduction

The Residential Tenancy Branch (RTB) encourages successful tenancies, where landlords and tenants work together to resolve any matters that may occur. But sometimes problems will occur for reasons such as someone failing to communicate about their needs and expectations.

An information officer at the RTB may be able to assist by providing information about the rights and responsibilities of both parties according to the Residential Tenancy Act (RTA) or Manufactured Home Park Tenancy Act (MHPTA). However, if attempts to work problems out still fail, either party can apply for a formal means to have the matter resolved by a third party. This is called Dispute Resolution.

A party has two years to apply for dispute resolution from the end of the tenancy.

Dispute Resolution

Dispute resolution proceedings are adjudicated in one of two ways. The most common way dispute resolution proceedings are adjudicated is through a participatory hearing. However, in some narrow circumstances, disputes will be dealt with based on written submissions only; these are called a [Landlord's Direct Request](#) or a [Tenant's DirectRequest](#).

At a hearing, an arbitrator (an independent and neutral decision maker) will hear a tenant's and landlord's (parties) version of the dispute and make a binding decision which they both must follow. The arbitrator may take a proactive role by asking questions designed to determine the facts of the matter and may also attempt to help the parties reach agreement, if possible.

After hearing what the parties have to say, the arbitrator will issue a decision based on the evidence and arguments presented by both parties at the hearing as well as the applicable tenancy legislation.

Jurisdiction

An arbitrator only has jurisdiction to hear matters relating to a residential or manufactured home park tenancy. If the relationship between the parties is not that of a landlord and tenant, as defined in the RTA or MHPTA, the arbitrator will not allow the hearing to proceed.

Example: *You are a tenant and your roommates have not paid their portions of the rent. An arbitrator cannot hear a dispute between you and your roommates because it relates to issues between tenants. An arbitrator can only hear disputes between tenants and landlords.*

Except in specific cases, a claim that exceeds \$35,000 must be heard at the Supreme Court of British Columbia rather than at the Residential Tenancy Branch. This does not apply to claims for compensation when a manufactured home park has been closed or a tenant is claiming compensation for a landlord failing to use the rental unit for the purpose stated on a Four Month Notice to End Tenancy.

How and where to apply for Dispute Resolution

When applying for Dispute Resolution, the applicant (party initiating the dispute) must complete an online Application for Dispute Resolution through the [Residential Tenancy Branch](#) website or submit a paper application to the [Burnaby Residential Tenancy Branch](#) or a [Service BC](#) Centre.

An application is not considered submitted until the filing fee is paid or a completed and approved application to waive the filing fee has also been submitted.

The application serves several purposes, including:

- to correctly name each respondent (a party who is responding to the application) that the claim is being made against;
- to provide the legal address of each party for service of documents;
- to ensure that the arbitrator and each respondent are aware of who has made the application and have sufficient details of the claim for it to be properly considered; and
- to act as a tool to guide each party in determining which types of evidence would assist in supporting his or her position.

Completing the Application for Dispute Resolution

RTB Information Officers can answer questions about the application process, but do not provide advice. If advice is needed, parties should speak to a lawyer or advocate. To apply for dispute resolution through the RTB, be sure to follow the instructions on the form or on the webpage if applying online.

The following is a checklist of the necessary information to have before submitting an application:

- The complete legal name of each applicant and respondent.
- The complete address of each applicant and respondent, including postal codes.
- The complete address of the rental unit, manufactured home site, or property.
- Full details of each claim and any supporting evidence.
- The amount(s) of money being claimed (if applicable) listed on a [Monetary Order Worksheet RTB-37](#).
- A copy of the tenancy agreement (if a written agreement exists).
- A copy of any relevant notice to end tenancy if an Order of Possession or an Order to cancel the notice is being requested.
- A copy of the Notice of Rent Increase if it is being disputed.

- The filing fee necessary to submit the application (or recent proof of low income if the applicant is applying to have the filing fee waived).

An arbitrator will hear the matters on the application. If a change needs to be made to an application, such as adding a related claim, parties should follow the [RTB Rule of Procedure, found on the RTB website](#), on how to amend an application for dispute resolution.. Only on very rare occasions will an arbitrator hear a related claim that was not included on the application. If the arbitrator allows it, the other party may request that the hearing be adjourned and present their reasons for this request. The arbitrator will consider the reasons and decide whether to grant the adjournment or continue with the hearing as is.

Concise details about each claim should be provided with the application. If necessary, a separate page can be uploaded or attached to the paper application to allow for more details.

While it is possible to have more than one claim on an application, if any of them are unrelated to the primary theme of the application, or are less urgent in nature, the arbitrator may decide to hear only certain claims, meaning that any that are not heard will have to be dealt with in a separate application.

Any application requesting a monetary order must include a breakdown of each type of claim, the amount of each claim, and the total amount of the claims. The applicant should use a [Monetary Order Worksheet RTB-37](#) to organize them.

The application may also include a request that the respondent reimburse the applicant the \$100 filing fee, which the arbitrator will determine based on whether the applicant is successful at the hearing.

The types of claims on the application will affect the dispute resolution hearing wait time.

An application that is considered urgent (i.e. where there is a severe risk to personal safety and/or property) will be processed as an expedited application if certain requirements are met.

The applicant will receive a Notice of Dispute Resolution hearing package and instructions including allowable methods of service and a deadline to complete service. These documents, along with the applicant's evidence, must be served on the respondent.

Joining applications

A party may apply to the director to join two or more applications where the claims are the same and it is reasonable for them to be heard together.

Example: *12 tenants living in the same building are applying against their landlord for an order that the elevator be repaired.*

The [Landlord's Request to Join Applications for Dispute Resolution RTB-18](#) or [Tenant's Request to Join Applications for Dispute Resolution RTB-19](#) should be submitted with the individual applications and \$100 filing fees and/or applications to waive the filing fee. These documents can be submitted to the [Burnaby Residential Tenancy Branch](#) or a [Service BC](#) Centre.

Amending an application

Once filed, the applicant can request that additional claims be added to or removed from the original application by amending (updating) it in two ways:

1. The applicant can submit a [Landlord Request to Amend an Application for Dispute Resolution RTB-42L](#) or [Tenant Request to Amend an Application for Dispute Resolution RTB-42T](#) and/or [Other Request to Amend an Application for Dispute Resolution to change address, add or remove a party or remove a claim RTB-42O](#) to the Burnaby Residential Tenancy Branch or a Service BC Centre.

A copy of the filed amendment form and any supporting evidence must be served to each respondent in one of the approved methods, like the original application.

The applicant can make a verbal request to the arbitrator at the hearing that the application be amended. The arbitrator will either grant or dismiss the request. Arbitrators are less likely to grant a request to amend an application at the hearing if the party seeking the amendment could reasonably have sought the amendment before the hearing but chose not to. If you want to amend your claim, don't wait! If consent is not granted, the applicant may apply again for a separate hearing to deal with any additional claims.

Re-application

Parties who are granted leave (meaning permission) to re-apply, and who wish to have another dispute resolution hearing, must complete and submit a new application and filing fee or a completed and approved application to waive the filing fee. A new Notice of Dispute Resolution Proceeding package will be provided to the applicant with instructions, including the allowable methods of service and a deadline to complete service.

If a party is granted leave to re-apply, any limitation period set out in the legislation is not extended.

See [Residential Tenancy Branch Rules of Procedure](#) for more information.

Notice of Dispute Resolution Proceeding

A Dispute Resolution Hearing is scheduled by the Residential Tenancy Branch to occur on a specific date and time.

The Notice of Dispute Resolution Proceeding package will provide:

- an assigned RTB file number;
- the name of each applicant and respondent;
- the date and time of the hearing;
- phone number options for dialing in; and
- an access code to join the teleconference call.

A dispute resolution hearing is normally scheduled for one hour, but the arbitrator may find it necessary to extend the hearing time or adjourn it (meaning to postpone completion) to another date in order to hear any remaining evidence or arguments that could not be completed during the original hearing.

Serving the Notice of Dispute Resolution Proceeding documents

After the hearing has been scheduled, the primary applicant will receive a Notice of Dispute Resolution Proceeding package to serve each named respondent; **this must be done within three days (in some cases, one day)**. The timing starts the day after the packages are ready to be served. This is in accordance with the legislative requirements.

The purpose of the packages is to notify each respondent of the nature of the dispute, the date and time of the hearing; to provide copies of the applicant's evidence, to provide information on how to submit evidence to the RTB and to each respondent, and to provide information about the dispute resolution process.

If the respondent is a landlord who has an agent, the agent may be served with the respondent's hearing package.

Each respondent's Notice of Dispute Resolution Proceeding package must include:

- the *Notice of Dispute Resolution Proceeding* document,
- a copy of the *Residential Tenancy Branch Respondent Instructions for Dispute Resolution* document, and
- a copy of any evidence that was submitted to the Residential Tenancy Branch when the application was made.

Allowable Methods of Service

Type of Dispute	# of days to serve	Allowable Methods of Service					
		Personal Service	Left with adult who resides with the tenant if respondent is Tenant	Canada Post Registered Mail	Email to address provided for service	Posted to the Door	Personal service to Agent if respondent is Landlord
Monetary	3	✓	X	✓	✓	X	✓
Landlord's Order of Possession	3	✓	✓	✓	✓	✓	n/a
Tenant's Order of Possession	3	✓	n/a	✓	✓	Maybe*	✓
Emergency repair order	3	✓	n/a	✓	✓	Maybe *	✓
Landlord's application for early termination of tenancy	1	✓	✓	✓	✓	✓	✓
Non-monetary (other than the types listed above)	3	✓	X	✓	✓	X	✓

* if these types of applications are brought by way of an expedited hearing, the application may be served by posting to the door. If the application is not brought by expedited hearing, it may not be served by posting to the door. (Yes, we know this is confusing.)

Personal Service may be a preferred method if the applicant has a witness who can provide evidence to support *where, when and to whom* the hearing package was served.

When service is by **Canada Post registered mail**, the tenancy legislation considers that the documents are received by the respondent five days after the envelope was given to Canada Post (unless there is evidence provided by the respondent stating otherwise). Regular mail service is not an acceptable form of service for hearing packages.

Please note: When documents are sent to a party using registered mail, the tenancy legislation requires that they be sent to a service address or forwarding address previously provided by the other party.

When processing an application for an expedited hearing, an information officer will call the applicant to confirm which allowable method of service they will be able to use. The hearing date for the application will be based on this, so the applicant must use the method of service that was given to the information officer. If the confirmed method of service is not used, the arbitrator may adjourn the hearing for a later date or dismiss the application.

Only in exceptional circumstances can an arbitrator extend the time for the service of hearing packages.

Declare Service

On certain types of applications for dispute resolution, applicants may also be required to indicate to the Residential Tenancy Branch that they have served the Notice of Dispute Resolution Proceeding Package on the [Dispute Access site](#) or at the Residential Tenancy Branch or Service BC Centre.

- The applicant must declare service for at least one respondent before the service deadline, within two days of the date by which they have been instructed to serve the Notice of Dispute Resolution Proceeding Package.
- If the applicant does not declare service before the service deadline, the hearing and application will be adjourned.

Reinstating an adjourned proceeding: If the applicant has served the respondent(s) but did not declare service to the Residential Tenancy Branch before the service deadline:

- The applicant may request to reinstate the adjourned hearing, within five days of the adjournment, by providing proof of service form [RTB-55](#) on the [Dispute Access site](#) or at the Residential Tenancy Branch or Service BC Centre.
- If the applicant does not provide proof that the notice of dispute has been served, the dispute will be deemed withdrawn.

Applicant Unable to Serve Normally

If the applicant is unable to serve the hearing packages by one of the allowable methods, the applicant may apply for permission to serve the documents in a different by applying to the RTB for an Order for Substituted Service.

Once the applicant completes the [Application for Substituted Service RTB-13](#) and submits it, with supporting evidence, to the Burnaby office of the Residential Tenancy Branch or a Service BC Centre, the documents will be assigned to an adjudicator or arbitrator who will review the application and evidence.

The applicant should provide evidence showing the failed attempts to serve the documents and how the requested method of service will result in successful service of the documents to the respondent.

In many cases, the three-day deadline for service of the hearing package will have expired already. The applicant can make a verbal request at the hearing for the arbitrator to consider the documents properly served, despite them being served to the respondent outside the three-day time limit.

Serving Other Types of Documents

Serving documents other than the Notice of Dispute Resolution Proceeding documents, such

as notices and evidence, follow similar procedures. Both parties must have an opportunity to view any documents to be discussed at the hearing, and all evidence should be uploaded to the file directly or submitted to the Residential Tenancy Branch or a Service BC Centre.

If a party fails to serve documents as required, such as evidence, the arbitrator may choose not to consider those specific items at the hearing or may order that the hearing be adjourned to provide time for all parties to review them.

Responding to a Notice of Dispute Resolution Proceeding

If a party receives a Notice of Dispute Resolution Proceeding package, they may do any one or more of the following:

- Contact the applicant directly to determine whether or not it is possible to settle the dispute without going to dispute resolution;
- Submit evidence to support their position in the matter and participate in the Dispute Resolution Hearing with any witnesses to dispute any of the applicant's claims; or
- Make an opposing claim by submitting an application for dispute resolution as a cross-application.*

*This might not be possible if there is not enough time before the hearing date and/or the types of claims in the new application are not related.

To ensure fairness, applicants must be given the opportunity to view any evidence that the respondent wishes to present at the hearing. All respondent evidence must be received by each applicant as well as the Residential Tenancy Branch not less than seven calendar days before the hearing date. If the evidence is not served by the deadline, the arbitrator may decide to exclude the evidence or adjourn the hearing to another date.

When Hearings are Rescheduled or Adjourned

A party who has been served but does not attend the dispute resolution hearing risks having the hearing proceed in their absence, in which the arbitrator may rule against them.

If the absent party is the applicant, the arbitrator may dismiss the application with or without leave to re-apply. If the absent party is the respondent, the arbitrator may proceed with the hearing and grant part or all of the application.

If the respondent does not attend the hearing, the applicant must prove that the application and hearing documents were provided to the respondent within the time limit given and by one of the allowable methods. If the applicant does not have evidence to prove this, the arbitrator may adjourn the hearing, or dismiss the application with or without leave to re-apply.

Obtaining Consent to Reschedule a Hearing

Parties who are unable to attend a hearing on the scheduled date or time should consult the other party. If both parties agree in writing to reschedule the hearing, a request to

reschedule the hearing to a later date may be granted. The Residential Tenancy Branch must receive the written request not less than two full business days before the current hearing date to reschedule it.

Adjournment by arbitrator when No Mutual Consent by Parties

If one party requests an adjournment of the hearing because they cannot attend and the other party does not agree, the hearing will go ahead at the scheduled date and time, and the arbitrator will rule on whether or not to adjourn the hearing to another date. If an adjournment is granted, the arbitrator may impose conditions on the party who was granted the adjournment. This type of request for adjournment must be made at the hearing. The party must be prepared to explain the reasons why they are making this request.

If a Party is Unable to Attend Hearing

A party who cannot attend the hearing should have a representative attend on their behalf. A representative should be prepared to present the absent party's case and evidence. If a party knows that they will be late or unable to attend the hearing due to circumstances beyond their control, the party should call the Residential Tenancy Branch information line as soon as possible so that the arbitrator can be notified. If a decision has already been reached, the party who did not attend the hearing may submit an Application for Review Consideration to request a new hearing. The party must provide details and supporting evidence to prove that they could not attend for reasons beyond their control. A different arbitrator will review the application and decide whether to uphold the original decision and orders or schedule a new hearing.

Withdrawing an Application

If the parties resolve their dispute, the applicant can withdraw their application any time before the hearing date. Only an applicant can request that the application be withdrawn - not a respondent.

If the applicant applied online and the application does not relate to a notice to end a tenancy, they can withdraw the application by logging into the [Dispute Access Site](#) using their BCeID and password and select the Withdraw button.

The applicant can also make a verbal request to the arbitrator at the hearing. Once an application is withdrawn, it cannot be reversed, and the filing fee will not be refunded.

Applications with requests to cancel a notice to end tenancy or a request for an Order of Possession can only be withdrawn with the written consent from the other party. The applicant must then submit a written request to the Residential Tenancy Branch to have the application withdrawn.

The applicant is responsible for notifying each respondent that the application has been withdrawn and that the hearing will not proceed.

Preparing for the Hearing

Parties can improve the likelihood of success by being organized and prepared ahead of time. We recommend making a list of the issues to be reviewed by the arbitrator and having relevant evidence to support or challenge each issue.

Evidence

To support or dispute an issue, each party must collect, submit, and serve evidence that is organized and easy to read. The amount of evidence should not be *excessive*. The arbitrator will accept and consider evidence that has met the service requirements and is relevant to the issues in the application.

Types of evidence include written summaries of events, estimates, receipts, photos, videos, recordings, witness statements, and email, text, and written exchanges between parties.

If a party has digital evidence such as audio and video recordings and electronic versions of documents to submit and serve, the party must provide the RTB and the other party with a [Digital Evidence Details Sheet RTB-43](#) and confirm that the other party can see and/or hear the evidence at least seven full days before the hearing.

See [Submitting Evidence](#) for additional information on digital file size and format restrictions.

It may help a party if they create an *outline* of the points to be made and the evidence to be presented. Clarifying the sequence of events by preparing a chronology or list that includes specific dates and times, events, and outcomes may also be useful. The outline could include: a description of the dispute, a chronology of events, a list of oral evidence to be presented by the party, and a list of the witnesses who will be present at the hearing.

A checklist is useful so that the evidence is collected and prepared in the order it will be presented at the hearing. The checklist could include the following:

- » Arrange witnesses
- » Determine if the services of a lawyer, agent, advocate, or interpreter are required and secure them as soon as possible
- » Obtain written and signed witness statements
- » Request any needed Summons to Testify
- » Organize relevant business records
- » Make one copy of documents, pictures and digital evidence to serve on each respondent; upload all evidence to the RTB's online portal; be sure to retain all originals.
- » Arrange all receipts, invoices, and estimates in the order to be presented
- » Prepare relevant questions to ask the other party and/or witnesses
- » Confirm that you have the correct date, time, phone number and access code for the hearing

- » Prepare an outline to be used during the hearing
- » Prepare a chronology or sequence of events document

Evidence must be served to each party and submitted to the RTB as soon as possible and must meet the following deadlines (these deadlines do not apply to expedited hearings):

- An applicant must serve and submit evidence *as soon as possible* so that it is received by each respondent and the RTB not less than 14 days before the hearing.
- A respondent must serve and submit evidence as soon as possible so that it is received by the applicant and the RTB not less than seven calendar days before the hearing.

See [Rules of Procedure – Rule 3](#) for more information.

Unless an arbitrator has requested particular evidence, evidence cannot be considered after the hearing has ended.

Therefore, it is very important for all parties to submit their evidence to the Residential Tenancy Branch as soon as possible and to have it on hand for the hearing.

An arbitrator is not responsible for initiating or conducting investigations on behalf of parties, obtaining documentary evidence, or calling witnesses. The arbitrator's duty is to hear and explore the evidence submitted by the parties and to issue a decision based on evidence and the law. Arbitrators will not call witnesses after a hearing ends to gather further information. Arbitrators cannot access RCMP or other law enforcement data bases. If a party thinks a witness or document is necessary to prove their case, it is their responsibility to obtain the document and submit it in advance of the hearing. If a party fails to secure necessary evidence or witnesses the hearing will end, and the law permits the arbitrator to make a legally binding decision on the evidence that was available.

The Tenancy Agreement

A written tenancy agreement signed by both the landlord and tenant should be submitted online to the Residential Tenancy Branch or a Service BC Centre.

If the disputing parties only have a verbal agreement; each party should write down in point form what they understand the verbal agreement to be. Witnesses to the verbal agreement may submit their own written statements about the agreement and may also attend the hearing to provide testimony to the arbitrator.

Witnesses

If a party wants to use a witness, the witness can be with them at the time of the hearing or can phone into the hearing separately. The witness will need the hearing date and time, phone number to dial in, and access code to connect to the hearing.

A party is not required to include testimony (also known as a formal written or spoken statement) from a witness but having one attend may strengthen the evidence already presented. If a witness will be attending, it is recommended to confirm what will be said at

the hearing. Providing the witness with a list of points to speak to and having the list on hand when the testimony is given to the arbitrator is also recommended.

Witness participation is solely at the discretion of the arbitrator and is not guaranteed.

At the beginning of the hearing, the arbitrator may request all witnesses' to temporarily leave the hearing and the arbitrator will call them if they want to hear from them. If a witness cannot attend the hearing, the witness should provide a signed letter explaining what they would have said at the hearing. The letter may be more effective if it is sworn under oath in front of a lawyer or notary public as a form of affidavit or statutory declaration.

See [Rule of Procedure 5.3 under Summons to attend or produce evidence](#) for more information.

Representation by a Lawyer, Advocate, or Agent and Arranging for an Interpreter

Although the Dispute Resolution process is designed so that legal representation is not necessary for most disputes, a party may be represented by a lawyer. Those arrangements must be made in advance and it is up to the party wishing to be represented to find their own agent, lawyer, advocate, or interpreter. The party is solely responsible for paying the costs to be represented.

Either party in a dispute resolution hearing is entitled to be represented by an agent or advocate. An agent may be a staff member of a corporate landlord or a friend or family member of a landlord or tenant who cannot attend the hearing or may attend the hearing to assist the applicant or respondent. An advocate may be an experienced person who can assist or present the case on behalf of the applicant or respondent.

The RTB does not provide foreign language translation; the responsibility for translation services rests with the party who requires them. In the case of American Sign Language (ASL) interpreters, if the proper request is filed using a [RTB-36: Request Alternate Hearing Format](#) form to request an alternate hearing format, the RTB can provide ASL services for participants who require it. The form and supporting documentation must be submitted within three days of receiving the Notice of Dispute documents.

Preparing questions for cross-examination of the other party

It is recommended to prepare a list of questions ahead of time for the other party and/or their witness(es). The arbitrators will allow each party to question the other party or a witness about their evidence or testimony

**For information about what to expect at your hearing,
see**

<<Guide Two: What to Expect at the Hearing>>

Residential Tenancy Branch contact information

For more information, including forms, information videos and other resources, please visit www.gov.bc.ca/landlordtenant

If you need to discuss your matters with an information officer, you may contact the RTB by phone, email, or visit the Burnaby office in person.

- **Lower Mainland:** 604-660-1020
- **Victoria:** 250-387-1602
- **Elsewhere in BC and Canada:** 1-800-665-8779

Our call centre and offices are open Monday to Friday from 9 a.m. to 4 p.m., excluding statutory holidays.

Our call centre and offices are closed from 9 a.m. to 11 a.m. on the last Wednesday of each month.

Email: HSRTO@gov.bc.ca

The Residential Tenancy Branch (RTB) office is located at:

400 - 5021 Kingsway
Burnaby, V5H 4A5

Please check our website for the current office hours.

TIP: If calling or visiting an RTB location, please have your questions written down ahead of time or any documents relating to your tenancy issues with you. This will make the interview more efficient and will ensure that all your questions are answered.