

Residential Tenancy Branch  
Rules of Procedure

## Table of Contents

Table of Contents .....	1
Definitions	6
Rule 1 – Objective .....	9
1.1 Objective .....	9
Rule 2 – Making a claim .....	9
2.1 Starting an Application for Dispute Resolution .....	9
2.2 Identifying issues on the Application for Dispute Resolution .....	9
2.3 Related issues .....	9
Filing an application .....	9
2.4 Submit an Application for Dispute Resolution .....	9
2.4.1 Communications and party contact information .....	9
2.5 Documents that must be submitted with an Application for Dispute Resolution	10
2.6 Point at which an application is considered to have been made .....	10
2.7 One or more respondents .....	10
2.8 Maximum amount of monetary claim .....	10
2.9 No divided claims .....	10
2.10 Joining applications .....	11
Making a cross-application for Dispute Resolution .....	11
2.11 Filing an Application for Dispute Resolution to counter a claim .....	11
2.12 Identify file being countered .....	11
2.13 Point at which a cross-application is considered to have been made .....	11
2.14 Scheduling a cross-Application for Dispute Resolution .....	12
Rule 3 – Serving the application and submitting and exchanging evidence .....	12
3.0.1 Digital submission of evidence .....	12
3.0.2 Restrictions on evidence format, size or amount .....	12
3.0.3 Paper evidence .....	12
3.0.4 Party must maintain exact copy of evidence .....	12
3.0.5 Residential Tenancy Branch will not return copies .....	12
3.0.6 Conversion of the format of evidence .....	12

Residential Tenancy Branch  
Rules of Procedure

3.0.7	Quality of evidence .....	12
3.1	Documents that must be served with the Notice of Dispute Resolution Proceeding Package .....	13
3.2	Repealed and replaced by Rule 10.....	13
3.3	Evidence for cross-Application for Dispute Resolution.....	13
3.4	If a respondent avoids service .....	13
3.5	Proof of service required at the dispute resolution hearing .....	13
3.6	Evidence must be relevant.....	14
3.7	Evidence must be organized, clear and legible.....	14
3.8	Original evidence .....	14
3.9	Physical evidence .....	14
3.10	Digital evidence.....	14
3.10.1	Description and labelling of digital evidence .....	14
3.10.2	Digital evidence uploads .....	15
3.10.3	Digital evidence submitted directly to the Residential Tenancy Branch or through Service BC .....	15
3.10.4	Digital evidence served to other parties .....	15
3.10.5	Confirmation of access to digital evidence .....	15
3.11	Unreasonable delay .....	16
3.12	Willful or recurring failure .....	16
3.13	Applicant evidence provided in single package.....	16
3.14	Evidence not submitted at the time of Application for Dispute Resolution ....	16
3.15	Respondent's evidence provided in single package .....	16
3.16	Respondent's proof of service.....	17
3.17	Consideration of new and relevant evidence .....	17
3.18	Evidence not received by the arbitrator.....	17
3.19	Submitting evidence after the hearing starts.....	17
Rule 4	– Amending an Application for Dispute Resolution .....	18
4.1	Amending an Application for Dispute Resolution .....	18
4.2	Amending an application at the hearing.....	18
4.3	Time limits for amending an application.....	18
4.4	Paying additional fee when amending a claim .....	18
4.5	Accepting an Amendment to an Application for Dispute Resolution .....	18

Residential Tenancy Branch  
Rules of Procedure

4.6	Serving an Amendment to an Application for Dispute Resolution .....	18
4.7	Objecting to a proposed amendment .....	19
Rule 5 – Before the hearing .....		19
5.0.1	Withdrawal of an Application for Dispute Resolution.....	19
Rescheduling .....		20
5.1	Rescheduling of a dispute resolution hearing by agreement not less than three days before the hearing.....	20
5.2	If agreement to reschedule the dispute resolution hearing cannot be obtained	21
Summons to attend or produce evidence.....		21
5.3	Application for a summons.....	21
5.4	When a request for a summons may be made .....	21
5.5	Witness compensation .....	21
Rule 6 – Pertaining to the hearing in general .....		22
6.1	Arbitrator’s role.....	22
6.2	What will be considered at a dispute resolution hearing .....	22
6.3	Format of dispute resolution hearing.....	22
6.4	A party may request that the hearing be held in a specific format.....	22
6.5	Opportunity to be heard on a request for a specific format .....	22
6.6	The standard of proof and onus of proof.....	22
6.7	Party may be represented or assisted .....	23
6.8	Proof of authority to act.....	23
6.9	Communication with the arbitrator .....	23
6.10	Interruptions and inappropriate behaviour at the dispute resolution hearing.	23
Recording of hearings .....		23
6.11	Recording prohibited.....	23
6.12	Official transcript .....	23
6.13	Restricted use of recordings .....	24
Rule 7 – During the hearing .....		24
7.1	Commencement of the dispute resolution hearing.....	24
7.2	Delay in the start of a hearing .....	24
7.3	Consequences of not attending the hearing.....	24
7.4	Evidence must be presented.....	24

Residential Tenancy Branch  
Rules of Procedure

Introductory matters .....	24
7.5 Introduction to the dispute resolution hearing .....	24
7.6 Identification of people present at a dispute resolution hearing .....	25
7.7 Preliminary matters .....	25
Adjourning a hearing .....	25
7.8 Adjournment after the dispute resolution hearing begins .....	25
7.9 Criteria for granting an adjournment .....	25
7.10 Mandatory attendance .....	25
7.11 Refusing a request for adjournment.....	25
Adding additional parties .....	26
7.12 Request that another person be added to a proceeding .....	26
7.13 Determining that another person be added as a party .....	26
7.14 Making orders regarding service .....	26
7.15 Issuing orders affecting an added party .....	26
7.16 Notice to materially-affected tenant(s) .....	26
Presentation of evidence at the hearing .....	27
7.17 Presentation of evidence.....	27
7.18 Order of presentation .....	27
7.19 Witnesses' attendance at the dispute resolution hearing .....	27
7.20 Exclusion of witnesses and others .....	27
Questions regarding evidence.....	27
7.21 Cross-examination .....	27
7.22 Questions asked through the arbitrator .....	27
7.23 Questions by the arbitrator.....	27
Rule 8 – Conclusion of a dispute resolution hearing .....	28
8.1 Ending the dispute resolution hearing .....	28
8.2 Reconvening the dispute resolution hearing .....	28
8.3 Concluding the dispute resolution proceeding .....	28
8.4 Decision and orders based on a settlement .....	28
8.5 Dispute resolution hearing ended without the parties reaching agreement....	28
8.6 Service of order.....	28
8.7 Original decision .....	28
8.8 Original order .....	28

Residential Tenancy Branch  
Rules of Procedure

Rule 9 – Miscellaneous ..... 29

    9.1 Non-compliance will not stop or nullify a proceeding ..... 29

    9.2 Conflicts between the Rules of Procedure and the Act ..... 29

    9.3 Effective date of these Rules of Procedure ..... 29

    9.4 Continued application of the Rules of Procedure dated September 23, 2017 29

Rule 10 - Expedited Hearings ..... 29

    10.1 Director’s powers on an application for an expedited hearing ..... 29

    10.2 Applicant’s evidence for an expedited hearing ..... 30

    10.3 Serving the notice of dispute resolution proceeding package ..... 30

    10.4 Respondent’s evidence for an expedited hearing ..... 30

    10.5 Time limit for respondent’s evidence ..... 30

    10.6 Late evidence ..... 30

    10.7 Amending an application for an expedited hearing ..... 30

    10.8 Cross-applications will be heard separately ..... 31

    10.9 Proof of Service ..... 31

Changes to Rules of Procedure ..... 31

Residential Tenancy Branch  
Rules of Procedure

## 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.
- Arbitrator** an independent decision-maker delegated by the director of the Residential Tenancy Branch to conduct dispute resolution proceedings and make final and binding decisions. In these Rules, this term is also used to refer to an adjudicator, who is delegated by the director of the Residential Tenancy Branch to conduct certain types of dispute resolution proceedings and make final and binding decisions.
- Cross-application** an Application for Dispute Resolution made in response to an existing, related Application for Dispute Resolution.
- Days<sup>1</sup>**
- a) If the time for doing an act **in relation to a Dispute Resolution proceeding** 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 **government office (such as the Residential Tenancy Branch or Service BC)** 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.

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<sup>1</sup> **This definition applies whether or not an act can be carried out using an online service.**

Residential Tenancy Branch  
Rules of Procedure

**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 of the Residential Tenancy Branch, a dispute resolution proceeding may be conducted by conference call, through written submissions or in person.

**Evidence** any type of proof presented by the parties at a dispute resolution proceeding in support of the case, including:

- written documents, such as the tenancy agreement, letters, 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.

**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, designating 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.

Residential Tenancy Branch  
Rules of Procedure

*Reschedule* is the act of the Residential Tenancy Branch designating 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.



Residential Tenancy Branch  
Rules of Procedure

**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 an Application for Dispute Resolution**

Applications for Dispute Resolution must be submitted through the Online Application for Dispute Resolution or 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 or submit fee waiver documents in person must complete payment within three days of submitting the application. This three-day period for completing payment is not an extension of any statutory timelines for making an application.

#### **2.4.1 Communications and party contact information**

If an Application for Dispute Resolution is made by multiple applicants, those applicants must nominate one applicant to be the primary applicant to:

- a) start the dispute resolution process, and
- b) receive communications from the Residential Tenancy Branch and be responsible for sharing each communication with all other applicants.

Each Application for Dispute Resolution requires a primary applicant, regardless of whether it has been joined with other applications in a single dispute resolution proceeding under Rule 2.10.

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

To the extent possible, the applicant should submit the following documents at the same time as the application is submitted:

- 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 in the proceeding, subject to Rule 3.17 [*Consideration of new and relevant evidence*].

When submitting applications using the Online Application for Dispute Resolution, the applicant must upload the required documents with the application or submit them to the Residential Tenancy Branch directly or through a Service BC Office within three days of submitting the Online Application for Dispute Resolution.

### **Applicant's Evidence for Expedited Hearing**

See Rule 10 [*Expedited Hearings*] for submitting documents related to applications under *Residential Tenancy Act* sections 33, 54 or 56 or *Manufactured Home Park Tenancy Act* section 27, 47 or 49.

## **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 either the fee has been paid or when all documents for a fee waiver have been submitted to the Residential Tenancy Branch directly or through a Service BC Office. The three-day period for completing payment under Rule 2.4 is not an extension of any statutory timelines for making an application.

If payment is not completed or if all documents for a fee waiver are not submitted within three days as required, the application will be considered abandoned. To pursue the claims, the applicant must submit a new application—this does not provide an extension of time for any statutory timelines.

## **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.

Residential Tenancy Branch  
Rules of Procedure

### **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 respond to an existing, 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 Notice of Dispute Resolution Proceeding 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 responding to.

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

A cross-application has been made when it has been submitted and either the fee has been paid or when all documents for a fee waiver have been submitted to the Residential Tenancy Branch directly or through a Service BC Office. The three-day period for completing payment under Rule 2.4 is not an extension of any statutory timelines for making an application.

If payment is not completed or if all documents for a fee waiver are not submitted within three days as required, the application will be considered abandoned. To pursue the claims, the applicant must submit a new application—this does not provide an extension of time for any statutory timelines.

## **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 responded to.

Cross-applications filed in relation to an application scheduled for an expedited hearing will be heard separately and not at the same time as the expedited hearing. See Rule 10 for more information on expedited hearings.

## **Rule 3 – Serving the application and submitting and exchanging evidence**

### **3.0.1 Digital submission of evidence**

Where possible, parties should submit evidence to the Residential Tenancy Branch digitally. If digital submission is not possible, a party may submit paper evidence to the Residential Tenancy Branch directly or through a Service BC Office in accordance with Rule 3.03.

### **3.0.2 Restrictions on evidence format, size or amount**

The Residential Tenancy Branch may impose restrictions on the format, size, or amount of evidence submitted or exchanged during the dispute resolution process.

### **3.0.3 Paper evidence**

If parties are unable to submit evidence digitally in accordance with Rule 3.0.1, parties submitting paper evidence to be relied on in the dispute resolution process should submit copies to the Residential Tenancy Branch directly or through a Service BC Office unless the arbitrator specifically requests original evidence under Rule 3.8.

### **3.0.4 Party must maintain exact copy of evidence**

A party who submits evidence must keep an exact copy of the evidence they submitted for not less than two years after the date on which the dispute resolution proceeding, including any reviews, concludes.

### **3.0.5 Residential Tenancy Branch will not return copies**

The Residential Tenancy Branch will not return copies of evidence submitted during the dispute resolution process.

### **3.0.6 Conversion of the format of evidence**

The Residential Tenancy Branch may:

- a) convert evidence into an electronically or digitally stored format; and
- b) deem the converted evidence as an accurate representation of the original.

### **3.0.7 Quality of evidence**

If evidence submitted is not in an acceptable format or quality to support a fair and appropriate dispute resolution process, the arbitrator may require the person who submitted the evidence to resubmit it in a different format or resubmit exact copies.

### **3.1 Documents that must be served with the Notice of Dispute Resolution Proceeding Package**

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 provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute Resolution;
- b) the Respondent Instructions for Dispute Resolution;
- c) the dispute resolution process fact sheet (RTB-114) or direct request process fact sheet (RTB-130) provided by the Residential Tenancy Branch; and
- 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*].

See Rule 10 for documents that must be served with the Notice of Dispute Resolution Proceeding Package for an Expedited Hearing and the timeframe for doing so.

### **3.2 Repealed and replaced by Rule 10**

### **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 days of submitting an Online Application for Dispute Resolution;
- be served on the other party at the same time as the Notice of Dispute Resolution Proceeding 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 Notice of Dispute Resolution

Residential Tenancy Branch  
Rules of Procedure

Proceeding 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 consider 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.

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.

**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 may include photographs, audio recordings, video recordings or electronic versions of printable documents in an accepted format.

**3.10.1 Description and labelling of digital evidence**

To ensure a fair, efficient and effective process, where a party submits digital evidence, identical digital evidence and an accompanying description must be submitted through the Online Application for Dispute Resolution or Dispute Access Site, directly to the Residential Tenancy Branch or through a Service BC Office, and be served on each respondent.

A party submitting digital evidence must:

- include with the digital evidence:
  - a description of the evidence;

Residential Tenancy Branch  
Rules of Procedure

- identification of photographs, such as a logical number system and description;
- a description of the contents of each digital file;
- a time code for the key point in each audio or video recording; and
- a statement as to the significance of each digital file;
- submit the digital evidence through the Online Application for Dispute Resolution system under 3.10.2, or directly to the Residential Tenancy Branch or a Service BC Office under 3.10.3; and
- serve the digital evidence on each respondent in accordance with 3.10.4.

**3.10.2 Digital evidence uploads**

Parties who submit evidence using the Residential Tenancy Branch Online Application for Dispute Resolution or Dispute Access Site must enter the information required under Rule 3.10.1 in the “Details and description” field when uploading evidence. The system will restrict evidence uploads to accepted formats and in accordance with file size restrictions pursuant to Rule 3.0.2.

**3.10.3 Digital evidence submitted directly to the Residential Tenancy Branch or through Service BC**

Parties who submit digital evidence to the Residential Tenancy Branch directly or through a Service BC Office must provide the information required under Rule 3.10.1 using *Digital Evidence Details* (form RTB-43).

**3.10.4 Digital evidence served to other parties**

Parties who serve digital evidence on other parties must provide the information required under Rule 3.10.1 using *Digital Evidence Details* (form RTB-43).

Parties who serve digital evidence to the Residential Tenancy Branch and paper evidence to other parties must provide the same documents and photographs, identified in the same manner in accordance with Rule 3.7.

**3.10.5 Confirmation of access to digital evidence**

The format of digital evidence must be accessible to all parties. For evidence submitted through the Online Application for Dispute Resolution, the system will only upload evidence in accepted formats or within the file size limit in accordance with Rule 3.0.2.

Before the hearing, a party providing digital evidence to the other party must confirm that the other party has playback equipment or is otherwise able to gain access to the evidence.

Before the hearing, a party providing digital evidence to the Residential Tenancy Branch directly or through a Service BC Office must confirm that the Residential Tenancy Branch has playback equipment or is otherwise able to gain access to the evidence.

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

Residential Tenancy Branch  
Rules of Procedure

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 seven days (or two days for an expedited hearing under Rule 10), 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 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 should 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 submitted with the Application for Dispute Resolution in accordance with Rule 2.5 [Documents that must be submitted with an Application for Dispute Resolution] or Rule 10 [*Expedited Hearings*].

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

Except for evidence related to an expedited hearing (see Rule 10), 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 should be submitted to the Residential Tenancy Branch online through the Dispute Access Site or directly to the Residential Tenancy Branch Office or through a Service BC Office. The respondent's evidence should be served on the other party in a single complete package.



## Residential Tenancy Branch Rules of Procedure

The respondent must ensure evidence that the respondent intends to rely on at the hearing is served on the applicant and submitted to the Residential Tenancy Branch as soon as possible. Except for evidence related to an expedited hearing (see Rule 10), and subject to Rule 3.17, the respondent's evidence must be received by the applicant and the Residential Tenancy Branch not less than seven days before the hearing.

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 2.5 [*Documents that must be submitted with an Application for Dispute Resolution*], 3.1, 3.2, 3.10.5, 3.14 3.15, and 10 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

Residential Tenancy Branch  
Rules of Procedure

- 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*].

Amendments to applications for expedited hearings may only be made at the hearing. See Rule 10.7 [*Amending an application for an expedited hearing*].

### **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 form 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 form and supporting evidence must be produced and served upon each respondent by

Residential Tenancy Branch  
Rules of Procedure

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 form 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**

### **5.0.1 Withdrawal of an Application for Dispute Resolution**

#### **How to withdraw an application for dispute resolution**

An applicant may withdraw an application for dispute resolution by notifying the Residential Tenancy Branch and providing a legible copy of any required documents, in one of the following ways:

- any time before the hearing, withdrawing the application through the [Online Application for Dispute Resolution](#) and either emailing any required documents to [HSRTO@gov.bc.ca](mailto:HSRTO@gov.bc.ca) including the file number in the subject line (“Withdrawal documents: file #”) or providing hard copies of any required documents to any Service BC Office or the Residential Tenancy Branch Office. Applications to dispute a notice to end tenancy or for adjourned hearings or review hearings may not be withdrawn online;
- any time before the hearing, notifying the Residential Tenancy Branch by telephone and providing hard copies of any required documents to any Service BC Office or the Residential Tenancy Branch Office;
- any time before the hearing, attending any Service BC Office or the Residential Tenancy Branch Office in person and providing a copy of any required documents; or
- at least one week before the scheduled hearing, emailing the Residential Tenancy Branch at [HSRTO@gov.bc.ca](mailto:HSRTO@gov.bc.ca), including the file number in the subject line (“Withdrawal: file #”), and attaching a copy of the required documents, if any.

## Residential Tenancy Branch Rules of Procedure

If your dispute resolution hearing is scheduled for less than one week away, the email may not be processed before the scheduled hearing, which could result in an arbitrator making a final and binding decision in the matter. If your dispute resolution hearing is scheduled for less than one week away, contact the Residential Tenancy Branch by phone or visit any Service BC Office or the Residential Tenancy Branch Office in person.

### **Withdrawing an application to dispute a notice to end tenancy**

Where a tenant has applied to dispute a landlord's notice to end tenancy, the applicant tenant requires the written consent of the landlord to withdraw their application.

Required documents:

- the respondent landlord's written consent to the withdrawal

### **Withdrawing an application after the hearing has begun and is adjourned**

Where a participatory hearing (a hearing that is scheduled to take place in person, by telephone or by videoconference) has begun but is adjourned by an arbitrator for continuation at a later date, a party seeking to withdraw that application must provide evidence of the other party's consent to the withdrawal and that the parties have resolved all matters at issue in the application through a written agreement, such that continuation of the hearing is no longer necessary.

Although the arbitrator will issue a final decision in the matter under Rule 8.7 [*Original decision*], no orders reflecting the terms of the settlement will be issued under Rule 8.4 [*Decision and orders based on settlement*].

Required documents:

- the other party's written consent to the withdrawal
- the written agreement signed by both parties, setting out the parties' agreed resolutions to each of the matters at issue in the application

### **Withdrawing a review hearing**

If a review hearing has been granted, the party who made the Application for Review Consideration may withdraw the review hearing at any time before the scheduled review hearing.

Required documents:

- where the decision or order at issue relates to a notice to end tenancy, the other party's written consent to the withdrawal of the application

### **Withdrawing all other types of applications**

In all other circumstances, where possible the applicant must provide the other party with written notice of the withdrawal of their application for dispute resolution.

## **Rescheduling**

### **5.1 Rescheduling of a dispute resolution hearing by agreement not less than three 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  
Rules of Procedure

Residential Tenancy Branch directly or through a Service BC Office not less than three 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 an arbitrator's own initiative, the arbitrator may issue a summons requiring a person to attend a dispute resolution proceeding or produce evidence. 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 an arbitrator issues a summons at the request of a party, the party who has requested the summons must provide the witness with compensation for the reasonable cost of giving that evidence.

When an arbitrator issues a summons on their 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 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 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.

### **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 complete and submit such a *Request for Alternate Hearing Format (RTB-36)* 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 complete and submit a *Request for Alternate Hearing Format (RTB-36)* with supporting documentation within three days of receiving the Notice of Dispute Resolution Proceeding or being deemed to have received the Notice of Dispute Resolution Proceeding.

### **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.

Residential Tenancy Branch  
Rules of Procedure

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 their presentation.

**6.8 Proof of authority to act**

The arbitrator may require an agent to provide proof of their 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 seven days before the hearing.

An arbitrator 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;

Residential Tenancy Branch  
Rules of Procedure

- 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.

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**

At the request of a party under Rule 7.12, 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 seven days before the reconvened hearing.

### **7.14 Making orders regarding service**

The arbitrator may make orders in relation to service of necessary documents on a newly added party, such as a copy of the Application for Dispute Resolution, a copy of the Notice of Dispute Resolution Proceeding Package and information on the dispute resolution process.

### **7.15 Issuing orders affecting an added party**

When a party has been added to a proceeding under Rule 7.13 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 Notice of Dispute Resolution Proceeding for the adjourned dispute resolution proceeding which includes the Application for Dispute Resolution, a copy of the dispute resolution process fact sheet (RTB-114) 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 cancel a Notice to End Tenancy. In such a case, the hearing will begin with the landlord presenting first unless the arbitrator decides otherwise.

### **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 they are 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;

Residential Tenancy Branch  
Rules of Procedure

- 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 primary applicant and the first respondent listed on the application, for sharing with the other applicant(s)/respondent(s), or as otherwise determined during the hearing.

The Residential Tenancy Branch will send the decision by email if an email address is provided unless a party requests a different method at the hearing.

### **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.

Residential Tenancy Branch  
Rules of Procedure

If the applicant is the recipient of the order, the Residential Tenancy Branch will send the orders to the applicant by email if an email address is provided unless the applicant requests a different method at the hearing.

## **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 at 4:30 pm PST on May 24, 2019 and apply to Applications for Dispute Resolution that are made through the Online Application for Dispute Resolution, to the Residential Tenancy Branch directly or through a Service BC Office on or after 4:30 pm PST on May 24, 2019, and to the dispute resolution proceedings that are commenced by those applications.

### **9.4 Continued application of the Rules of Procedure dated September 23, 2017**

The former Rules of Procedure that were published on September 23, 2017 continue in effect and will apply to:

- a) Applications for Dispute Resolution that were made prior to 4:30 pm PST on May 24, 2019.
- b) Applications for Dispute Resolution that were made prior to 4:30 pm PST on May 24, 2019 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 of 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.

## **Rule 10 - Expedited Hearings**

If any time limit in this rule conflicts with the time limit in another rule, the time limit in this rule applies to the expedited hearing.

### **10.1 Director's powers on an application for an expedited hearing**

In respect of an application for an expedited hearing, the director may

- make an order specifying the method(s) of service the applicant or respondent must use;
- make an order specifying earlier time limits than set out in this rule or any other rule; and

Residential Tenancy Branch  
Rules of Procedure

- set the matter down to be heard on a date that is earlier than would normally be required to accommodate the time limits established under these rules in cases of extreme urgency.

**10.2 Applicant's evidence for an expedited hearing**

An applicant must submit all evidence that the applicant intends to rely on at the hearing with the Application for Dispute Resolution.

**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*].

**10.4 Respondent's evidence for an expedited hearing**

Copies of all of the respondent's available evidence must be submitted to the Residential Tenancy Branch online through the Dispute Access Site or directly to the Residential Tenancy Branch Office or through a Service BC Office. The respondent's evidence must be served on the other party in a single complete package.

**10.5 Time limit for respondent's evidence**

The respondent must ensure evidence they intend to rely on at the hearing is served on the applicant and submitted to the Residential Tenancy Branch as soon as possible and at least two days before the hearing.

**10.6 Late evidence**

If a piece of evidence is not available when the applicant or respondent submits and serves their evidence, the arbitrator will apply Rule 3.17.

**10.7 Amending an application for an expedited hearing**

An application for an expedited hearing may only be amended at the hearing. Requests to amend an application made prior to the hearing will be denied.

Residential Tenancy Branch  
Rules of Procedure

**10.8 Cross-applications will be heard separately**

An application for dispute resolution to counter a claim scheduled under Rule 10 will be set down for a separate hearing.

**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.

**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.
5.0.1	am	Addition of “where possible” to section on Withdrawing all other types of applications	2017-09-27
9.4, b	del	Deleted “cross-applications made on or after September 23, 2017 in response to an application that was made before September 23, 2017”	2017-09-27
2.5	del	Deleted reference to s. 56 of the <i>Residential Tenancy Act</i> and s. 49 of the <i>Manufactured Home Park Tenancy Act</i> , added a reference to Rule 3.2	2018-01-24
10	new	Rule 10 added	2019-05-24
3.2	del	Repealed	2019-05-24
Page 6	am	Clarification to definition of Days	2020-02-03, 4:30 pm
6.4	am	Updated requirements	2020-08-07

Change notations

am = text amended or changed

del = text deleted

rep = rule repealed

new = new section added