



Landlord and Tenant Fact Sheet

RTB-114

The Dispute Resolution Process

This Fact Sheet refers to a number of provisions of the *Manufactured Home Park Tenancy Act* (MHPTA), the *Residential Tenancy Act* (RTA), to the Rules of Procedure and other Fact Sheets.

These documents are online at www.rto.gov.bc.ca, or you can get copies from:

- RTB Burnaby, 400-5021 Kingsway Avenue (phone 604 660-1020)
- RTB Victoria, 1st Floor, 1019 Wharf Street (phone 250 387-1602)
- RTB Kelowna, 101-2141 Springfield Road (phone 1-800-665-8779), or
- any Service BC—Government Agents Office.

The dispute resolution process

A dispute resolution proceeding is a quasi-judicial process for the resolution of disputes between landlords and tenants. Under the authority of the MHPTA and the RTA, the director may appoint an independent dispute resolution officer (DRO) to help the parties resolve their dispute without a formal hearing or to conduct a hearing and make an impartial, binding decision on the parties.

The dispute resolution process is designed to provide an open, consistent, efficient and just opportunity for all parties to tell their story and present their evidence to an independent decision-maker. To assist in this, the director, with input from both landlord and tenant groups, has established the Dispute Resolution Rules of Procedure. It is important to know that the MHPTA and RTA take precedence over the Rules and that a failure to comply with the Rules does not stop or nullify the proceeding in whole or in part. A DRO will make that decision.

The hearing package

When a person makes an Application for Dispute Resolution, the Residential Tenancy Branch (RTB) sets a hearing date and prepares a package of information about the dispute resolution proceeding (called “the Hearing Package”).

The Hearing Package contains the following:

- Notice of Hearing Letter – provides the names of the applicant(s) and the respondent(s), the date, time and place of the hearing and the RTB file number. It will also show the telephone numbers to be used if the hearing is to be by conference call.
- Application for Dispute Resolution – identifies the type and details of the dispute along with any evidence submitted with the application.
- Fact Sheet RTB-114 “The Dispute Resolution Process” that provides information about the dispute resolution process and the rights and responsibilities of parties to the dispute resolution process.

RTB will give the applicant enough copies of the Hearing Package for each of the respondents and one for the applicant to keep. The applicant is responsible for serving a Hearing Package on each of the Parties.

Office of Housing and Construction Standards

Residential Tenancy Branch
Lower Mainland: 604-660-1020 Victoria: 387-1602 Elsewhere in BC: 1-800-665-8779
Website: www.rto.gov.bc.ca

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Serving the hearing package

A party to a dispute must receive proper notice of the dispute and must have reasonable time to prepare for the dispute resolution proceeding. Within three (3) days after receiving the Hearing Package from RTB, the applicant must serve the other party with the Hearing Package and written details of any monetary claim being made in one of the following ways required by the MHPTA or the RTA.

For the details about different options for serving the Hearing Package, other documents, and evidence, see:

- RTA s. 88, 89, 71 or MHPTA s. 82, 81, 64
- RTB "Rules of Procedure",
- Fact Sheet RTB-119 "How to Serve Documents", and
- Fact Sheet RTB-126 "Deadlines for Serving Evidence and Submitting It to the Residential Tenancy Branch".

Substituted Service

Anyone having difficulty serving a document using one of the options under the RTA or MHPTA may apply for an order allowing for the document to be served in a different way. A person making such a request must show that they have made reasonable efforts to serve the documents using one of the options under the RTA or MHPTA and these types of service have not been possible. (s. 71 RTA and s. 64 MHPTA)

Adding other people to the Dispute Resolution Proceeding

If the DRO believes that another tenant of a landlord, who is a party to a hearing, will be or is likely to be materially affected by the outcome of the hearing, the DRO may order that the other tenant be given notice of the hearing and may provide that other tenant with an opportunity to be heard during the hearing.

A respondent may also request that a third party be added to a dispute resolution proceeding and may request an adjournment of the proceedings for this purpose. If the adjournment is granted, the third party will have an opportunity to attend the hearing and present relevant evidence.

Re-scheduling and adjournment of hearings

RTB will re-schedule a dispute resolution proceeding if written consent is received from both the applicant and the respondent before noon at least three (3) business days before the scheduled date of the proceeding.

- See: Fact Sheet RTB-126 "Deadlines for Serving Evidence and Submitting It to the Residential Tenancy Branch" for an explanation of what "*at least 3 days*" means.

If the parties cannot agree to re-schedule, then the hearing will start as scheduled. The DRO will then consider the views of both parties and decide whether to grant an adjournment.

Deadlines for Serving Evidence and Submitting it to RTB

- see Fact Sheet RTB 126 "Deadlines for Serving Evidence and Submitting It to the Residential Tenancy Branch".
- see RTB Rules of Procedure.

To the extent that is possible, the applicant must file copies of all available documents, photographs, video or audio tape evidence at the same time as you file your Application for Dispute Resolution at the RTB. The respondent must also submit all available evidence to the RTB as soon as possible.

Copies of all evidence from both the applicant and the respondent and/or written notice of evidence must be served on each other and received by RTB as soon as possible and "*at least*" five (5) days before the dispute resolution hearing.

If the time between filing your Application and the hearing date does not allow the five (5) day requirement to be met, then the evidence must be received by RTB and given to the other respondent "at least" two (2) days before the hearing. The same 2-day rule applies to a respondent's evidence if the time between being served with an Application and the day of the hearing does not allow for the 5-day requirement to be met.

Written submissions must be legible and must provide relevant facts and details, not just opinions; pages must be numbered. Put a number on the back of each photograph (and each copy of the photograph) along with a brief explanation of what is being shown, for example: "carpet stain in living room".

Not all RTB hearing rooms are equipped for video presentations so you may be required to provide your own VCR and monitor. You must supply the other party and RTB with a copy (VHS) of the video tape. In the case of audiocassettes you must supply your own equipment and provide a copy of the cassette to the other party and to RTB.

You must provide the RTB with the names and telephone numbers of any witnesses you intend to introduce at a conference call hearing.

Preparing for the hearing

- see Fact Sheet RTB-127 "Preparing for Dispute Resolution"

Make a list of the issues to be discussed and some of the points the other party might raise. List the evidence that you will need for each issue and how it is relevant to the claim. If you are going to call witnesses, make sure they prepare themselves in a similar way and if they have documents to present make sure the other party and RTB have received copies. Make a record of how, when and where any documents were given. If you are a respondent and you wish to make an opposing claim, you must file your own separate application.

At the hearing

Unless the DRO decides otherwise, the hearing will proceed at the scheduled time. A party may have an agent represent them or an advocate to assist them. The person making the application will generally present his or her case first. Parties must show the relevance of the evidence that they are providing. Parties to a hearing must present the DRO with the most convincing evidence that they can find. Part of the task of the dispute resolution officer is to determine if the evidence is sufficient to support the claim and make findings of fact.

Witnesses are excluded from the hearing until called to give evidence.

Parties will be given sufficient opportunity to present their case. The DRO may ask questions to determine relevancy or to assist in making a decision and, if appropriate, will allow one party to ask questions of the other party.

Once the hearing is completed no further submissions or evidence will be considered unless specifically requested by the dispute resolution officer who has 30 days to issue a decision after the hearing.

Obtaining clarification, correction or review of the decision

- see Fact Sheet RTB-111 "Clarification or Correction of Orders or Decisions"

A party may request correction of a typographical, arithmetical or other similar error in a DRO's decision. A party may also, within 15 days after the decision is received, request clarification of the decision, order or reasons, or ask a DRO to deal with any matter that was omitted from the decision.

- see Fact Sheet RTB-100 "Review of a Dispute Resolution Officer's Decision"

A DRO's decision may be reviewed for only one of the following reasons:

- (1) a party was unable to attend the original hearing due to circumstances that could not be anticipated and that were beyond his or her control.
- (2) a party has new and relevant evidence that was not available at the time of the original hearing.
- (3) a party has evidence that the decision was obtained by fraud.

If you are unhappy with a DRO's decision

No government official has the power to change or overturn a DRO's decision. If a party believes that a DRO made an error in law or was biased in making his or her decision or made an error in law or jurisdiction, the matter will have to be taken to Supreme Court of B.C. for judicial review. The Court cannot provide a different outcome but the Court can order that RTB schedule a new hearing with a different DRO.

For more information ...

Visit the RTB's Web site at www.rto.gov.bc.ca.

Call an Information Officer or listen to our 24 Hour Recorded Information Line:

Lower Mainland: 604-660-1020

Victoria: 250-387-1602

Elsewhere in BC: 1-800-665-8779

Visit the RTB nearest you:

Burnaby: 400-5021 Kingsway

Victoria: 1st Floor, 1019 Wharf Street

Kelowna: 101-2141 Springfield Road

RTB Burnaby and Victoria are open 8:30 a.m. to 4:30 p.m., Monday to Friday.

RTB Kelowna is open 8:30 a.m. to 12 noon, Monday to Friday for limited services.

All RTB offices are closed on statutory holidays.

If there is no RTB in your area, you can get residential tenancy guides, fact sheets and forms online at www.rto.gov.bc.ca or at any Service BC—Government Agents Office.