

BRITISH COLUMBIA  
Ministry of Forests and Range and Minister Responsible for Housing  
Residential Tenancy Branch

DISPUTE RESOLUTION PROCEEDINGS  
**RULES OF PROCEDURE**

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**DISPUTE RESOLUTION RULES OF PROCEDURE**

|                           |
|---------------------------|
| <p><b>DEFINITIONS</b></p> |
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|                                      |   |
|--------------------------------------|---|
| <b>Act</b>                           | the <i>Residential Tenancy Act</i> or <i>Manufactured Home Park Tenancy Act</i> , as applicable.  |
| <b>Adjournment</b>                   | the determination by a Dispute Resolution Officer 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 Dispute Resolution Officer's own initiative.  |
| <b>Advocate</b>                      | a person who provides assistance to a party.  |
| <b>Agent</b>                         | a person appointed by a party to act on that party's behalf.  |
| <b>Applicant</b>                     | 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.  |
| <b>Cross application</b>             | an Application for Dispute Resolution made to counter an existing application or made in response to a related Application for Dispute Resolution.  |
| <b>Days</b>                          | <p>in the calculation of time expressed as "at least" a number of days, the first and last days must be excluded. If the date the document, notice or evidence must be served or given falls on a weekend or holiday, and it must be</p> <ul style="list-style-type: none"><li>• Served on a business, or</li><li>• Filed in an office,</li></ul> <p>then it must be served or filed on the previous business day. If the document or notice must be provided to the Residential Tenancy Branch, weekends and holidays are not included in the calculation of days.</p> |
| <b>Decision</b>                      | a conclusion or determination of the Dispute Resolution Officer which legally resolves the matters outlined in the Application for Dispute Resolution, including orders, if necessary to implement the decision.  |
| <b>Dispute resolution proceeding</b> | <p>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:</p> <ol style="list-style-type: none"><li>a) a proceeding conducted by a Dispute Resolution Officer that resolves disputes without a formal dispute resolution proceeding, and</li></ol>   |

after which the Dispute Resolution Officer makes a decision and/or order; and

b) a formal dispute resolution proceeding at which a Dispute Resolution Officer will give the parties to the dispute an opportunity to present evidence and argument and to question the other party, and after which the Dispute Resolution Officer makes a decision and/or order.

At the discretion of the Director, a dispute resolution proceeding may be conducted in-person, or conference call, or by written submissions

**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, printed copies of emails, receipts, pictures and the sworn or unsworn statements of the witnesses;
- Photographs, videotape, audiotape, and other physical evidence;
- Oral statements of the parties or witnesses given under oath or affirmation.

**In writing**

except where an original document is required by the Dispute Resolution Officer, printed documents or documents to be submitted in writing and may be submitted by fax or by email.

**Party**

the applicant or respondent named on the Application for Dispute Resolution or added to the application by a Dispute Resolution Officer, 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.

**Personal information**

recorded information about an identifiable individual including:

- Name, address or telephone number;
- Race, national or ethnic origin, colour, or religious or political beliefs or associations;
- Age, sex, sexual orientation, marital status or family status;
- Identifying number, symbol or other particular assigned to the individual;
- Fingerprints, blood type or inheritable characteristics;
- Health care history, including physical or mental disability, [NOTE: this will be modified when RTA provisions relating to assisted living or supported living come into effect.];
- Educational or criminal history; or
- Financial or employment history, except as required in disputes about eligibility for subsidized housing;

- Anyone else’s opinion about the individual [NOTE: this will be modified when RTA provisions relating to assisted living and supported living come into effect.].

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| <b>Reasons</b>             | the grounds and conclusions on which a Dispute Resolution Officer has based a decision, including both factual evidence and law.   |
| <b>Relevant</b>            | 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.   |
| <b>Reschedule</b>          | the act of the Residential Tenancy Branch that re-designates a time, date, and place for the dispute resolution proceeding to commence or be reconvened, including a determination whether the rescheduled dispute resolution proceeding will be conducted in-person, or by conference call, or by written submissions.        |
| <b>Reserve</b>             | the act of a Dispute Resolution Officer deciding not to make a decision at the dispute resolution proceeding, but to take some time to provide the written decision/order and written reasons within the time limits specified under the Act.  |
| <b>Respondent</b>          | the landlord or tenant against whom the Application for Dispute Resolution has been made; sometimes called the “other party”.  |
| <b>Schedule</b>            | the act of the Residential Tenancy Branch, at the time an application is filed, that designates a time, date, and place for the dispute resolution proceeding to be commenced, including a determination whether the dispute resolution proceeding will be conducted in-person, or conference call, or by written submissions. |
| <b>Serve</b>               | the formal legal manner of giving a party required documents and evidence as set out in the Act.   |
| <b>Sever</b>               | to delete or strike-over information in such a way that the information is no longer legible.  |
| <b>Substituted service</b> | an alternative method of service authorized by a Dispute Resolution Officer 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 AND PURPOSE**

**1.1 Purpose of the dispute resolution process**

The purpose of dispute resolution process is to enable the Director of the Residential Tenancy Branch to:

- a) assist a landlord and a tenant to resolve a dispute without the need for a formal dispute resolution proceeding; or,
- b) in a formal dispute resolution proceeding, have an impartial, independent Dispute Resolution Officer hear the landlord and the tenant explain their separate versions of a dispute, receive the evidence presented by each party and make an impartial and binding decision to resolve the dispute.

**1.2 Objective of the Rules of Procedure**

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

**RULE 2 – APPLICATION FOR DISPUTE RESOLUTION**

**2.1 Grounds for the application**

The Dispute Resolution Officer must hear and decide on the matters set out in the Application for Dispute Resolution, except as provided for under the Act or these Rules of Procedure.

**2.2 Joining applications**

In determining whether to join Applications for Dispute Resolution, the Director must 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 Dispute Resolution Officer will have to consider the same facts and make the same or similar findings of law in resolving each application.

**2.3 Dismissing unrelated disputes in a single application**

If, in the course of the dispute resolution proceeding, the Dispute Resolution Officer determines that it is appropriate to do so, the Dispute Resolution Officer

may dismiss unrelated disputes contained in a single application with or without leave to reapply.

**2.4 Limit on the amount of claim**

An applicant with a claim that amounts to more than \$25,000 may choose to abandon part of the claim so that the total claim will come within the limit that may be determined by a Dispute Resolution Officer. An applicant is not permitted to divide a claim that exceeds \$25,000 into smaller claims. Where two (2) or more applicants have been joined, the monetary limit for each applicant's total claim is \$25,000.

**2.5 Amending an application before the dispute resolution proceeding**

The applicant may amend the application without consent if the dispute resolution proceeding has not yet commenced. If applications have not been served on any respondents, the applicant must submit an amended copy to the Residential Tenancy Branch and serve the amended application.

If the application has been served, and all requirements can be met to serve each respondent with an amended copy at least seven (7) days before the dispute resolution proceeding, the applicant may be permitted to file a revised application with the Residential Tenancy Branch. A copy of the revised application must be served on each respondent at least five (5) days before the scheduled date for dispute resolution proceeding.

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| <b>RULE 3 – SERVING THE APPLICATION AND THE APPLICANT'S EVIDENCE</b> |
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**3.1 Documents that must be served**

Together with a copy of the Application for Dispute Resolution, the applicant must serve each respondent with copies of all of the following:

- a) the notice of dispute resolution proceeding letter provided to the applicant by the Residential Tenancy Branch;
- b) the dispute resolution proceeding information package provided by the Residential Tenancy Branch;
- c) the details of any monetary claim being made, and
- d) any other evidence accepted by the Residential Tenancy Branch with the application or that is available to be served.

**3.2 If a respondent avoids service**

If a respondent is avoiding service or cannot be found, the applicant can return to the Residential Tenancy Branch and request a Dispute Resolution Officer's order for substituted service, or make the application at the start of the dispute resolution



proceeding, provided that reasonable attempts have been made to serve the respondent.

**3.3 Proof of service required at the dispute resolution proceeding**

If the respondent does not attend the dispute resolution proceeding, the applicant must prove to the Dispute Resolution Officer that each respondent was served as required under the Act.

The person who served the documents must either attend the dispute resolution proceeding as a witness, either in-person or by conference call. If the person who served the documents is not available to attend the dispute resolution proceeding, the applicant may submit as evidence an affidavit of service, sworn by the person who served the documents, informing the Dispute Resolution Officer how the service was accomplished.

**3.4 Evidence to be filed with the Application for Dispute Resolution**

To the extent possible, the applicant must file copies of all available documents, photographs, video or audio tape evidence at the same time as the application is filed.

**3.5 Evidence not filed with the Application for Dispute Resolution**

a) Copies of any documents, photographs, video or audio tape evidence that are not available to be filed with the application, but which the applicant intends to rely upon as evidence at the dispute resolution proceeding, must be received by the Residential Tenancy Branch and must be served on the respondent as soon as possible, and at least (5) days before the dispute resolution proceeding as those days are defined in the “Definitions” part of the Rules of Procedure.

b) If the time between the filing of the application and the date of the dispute resolution proceeding does not allow the five (5) day requirement of a) to be met, then the evidence must be received by the Residential Tenancy Branch and served on the respondent at least two (2) days before the dispute resolution proceeding.

c) If copies of the applicant’s evidence are not received by the Residential Tenancy Branch or served on the respondent as required, the Dispute Resolution Officer must apply Rule 11.6 [Consideration of evidence not provided to the other party or the Residential Tenancy Branch in advance of the dispute resolution proceeding].

**3.6 Notice of other physical evidence**

a) An applicant who intends to present and rely upon other physical evidence at the dispute resolution proceeding must provide a description of the evidence to the Residential Tenancy Branch and serve the respondent at least five (5) business days before the dispute resolution proceeding.

- b) If the time between the filing of the application and the date of the dispute resolution proceeding does not allow the five (5) day requirement in a) to be met, then the evidence must be received by the Residential Tenancy Branch and served on the respondent at least two (2) days before the dispute resolution proceeding.
- c) If a description of the evidence is not received by the Residential Tenancy Branch or served on the respondent as required, the Dispute Resolution Officer must apply Rule 11.5 or Rule 11.6 [Consideration of evidence not provided to the other party or the Residential Tenancy Branch in advance of the dispute resolution proceeding].

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| <b>RULE 4 – SERVING THE RESPONDENT’S EVIDENCE</b> |
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**4.1           Serving the respondent’s evidence**

- a) If the respondent intends to dispute an Application for Dispute Resolution, copies of all available documents, photographs, video or audio tape evidence the respondent intends to rely upon as evidence at the dispute resolution proceeding must be received by the Residential Tenancy Branch and served on the applicant as soon as possible and at least five (5) days before the dispute resolution proceeding as those days are defined in the “Definitions” part of the Rules of Procedure.
- b) If the date of the dispute resolution proceeding does not allow the five (5) day requirement in a) to be met, then all of the respondent’s evidence must be received by the Residential Tenancy Branch and served on the applicant at least two (2) days before the dispute resolution proceeding.
- c) If copies of the respondent’s evidence are not received by the Residential Tenancy Branch or served on the applicant as required, the Dispute Resolution Office must apply Rule 11.6 to evidence the respondent presents at the dispute resolution proceeding [Consideration of evidence not provided to the other party or the Residential Tenancy Branch in advance of the dispute resolution proceeding].

**4.2           Notice of other physical evidence**

- a) A respondent who intends to present and rely upon other physical evidence at the dispute resolution proceeding must provide a description of the evidence to the Residential Tenancy Branch and serve the applicant at least five (5) business days before the dispute resolution proceeding.
- b) If the time between the filing of the application and the date of the dispute resolution proceeding does not allow five (5) day requirement in a) to be met, then the evidence must be received by the Residential Tenancy Branch and served on the applicant at least two (2) days before the dispute resolution proceeding.
- c) If a description of the evidence is not received by the Residential Tenancy Branch or served on the applicant as required, the Dispute Resolution Officer must

apply Rule 11.5 or Rule 11.6 [Consideration of evidence not provided to the other party or the Residential Tenancy Branch in advance of the dispute resolution proceeding].

**RULE 5 – MAKING A CROSS-APPLICATION FOR DISPUTE RESOLUTION**

**5.1 Making a cross-Application for Dispute Resolution**

A party making a cross-application against the applicant must file an Application for Dispute Resolution and serve it in accordance with Rule 3 [serving the application and the applicant's evidence] and the Act. If appropriate, and where the party has sufficient time to serve the Application for Dispute Resolution, the required documents and any documents, photographs, video or audio tape evidence on the Applicant and the Residential Tenancy Branch, the Director must schedule the cross application to be heard by the same Dispute Resolution Officer at the same time as the original application. The minimum time before the scheduled dispute resolution proceeding date that a cross application may be filed in order to have both applications heard at the same time is five (5) days before the scheduled dispute resolution proceeding date for the first Application for Dispute Resolution, excluding weekends and holidays.

**RULE 6 – RESCHEDULING AND ADJOURNMENT OF DISPUTE RESOLUTION PROCEEDINGS**

**6.1 Rescheduling of a dispute resolution proceeding by consent more than three days in advance**

The Residential Tenancy Branch will reschedule a dispute resolution proceeding if written consent from both the applicant and the respondent is received by the Residential Tenancy Branch before noon at least three (3) business days before the scheduled date for the dispute resolution proceeding.

**6.2 If consent to rescheduling the dispute resolution proceeding cannot be obtained**

If a party wants to request that a dispute resolution proceeding be rescheduled to another date because that party will be unable to attend the dispute resolution proceeding due to circumstances beyond his or her control, and if the opposing party does not consent to rescheduling the dispute resolution proceeding, the dispute resolution proceeding must commence at the scheduled time and the party requesting the adjournment can ask the Dispute Resolution Officer to reschedule the dispute resolution proceeding by:

- a) submitting to the Residential Tenancy Branch, at least three (3) business days before the dispute resolution proceeding, a document requesting that the dispute resolution proceeding be rescheduled and setting out the circumstances that are beyond the party's control that will prevent him or her from attending the dispute resolution proceeding; or

- b) having an agent represent him or her attend the dispute resolution proceeding to make a request to the Dispute Resolution Officer to reschedule the dispute resolution proceeding and to describe the circumstances that are beyond the party's control that will prevent him or her from attending the dispute resolution proceeding.

**6.3 Adjourment after the dispute resolution proceeding commences**

At any time after the dispute resolution proceeding commences, the Dispute Resolution Officer may adjourn the dispute resolution proceeding to a later time at the request of any party or on the Dispute Resolution Officer's own initiative.

**6.4 Criteria for granting an adjournment**

Without restricting the authority of the Dispute Resolution Officer to consider other factors, the Dispute Resolution Officer must apply the following criteria when considering a party's request for an adjournment of the dispute resolution proceeding:

- a) the oral or written submissions of the parties;
- b) whether the purpose for which the adjournment is sought will contribute to the resolution of the matter in accordance with the objectives set out in Rule 1 [objective and purpose];
- c) whether the adjournment is required to provide a fair opportunity for a party to be heard, including whether a party had sufficient notice of the dispute resolution proceeding;
- d) the degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment; and
- e) the possible prejudice to each party.

**6.5 Mandatory attendance**

The Dispute Resolution Officer may, in granting an adjournment, make it mandatory for the parties to attend on the date when the dispute resolution proceeding will be reconvened. If a party does not attend the reconvened dispute resolution proceeding at the scheduled time, the Dispute Resolution Officer may commence or continue the dispute resolution proceeding and may conclude the dispute resolution proceeding and make a decision or order in that party's absence.

**6.6 Refusing a request for adjournment**

If the Dispute Resolution Officer determines that it is not appropriate to grant a request for an adjournment, the dispute resolution proceeding will proceed. If the applicant is unwilling to proceed, the Dispute Resolution Officer may dismiss the application with or without leave to re-apply. If the respondent is unwilling to proceed, the Dispute Resolution Officer may proceed with the dispute resolution

proceeding and may conclude the dispute resolution proceeding and make a decision or order.

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| <b>RULE 7 – SUMMONS</b> |
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**7.1 Application for a summons to testify**

A request to a Dispute Resolution Officer to issue a summons to testify must be submitted, in writing, to the Residential Tenancy Branch, and must:

- a) set out the name and address of the witness;
- b) include a detailed list of any documents, photographs, video or audio tape, or other physical evidence the witness must bring to the dispute resolution proceeding; and
- c) provide a summary of the evidence the witness is expected to produce and a summary of the purpose for which the evidence is required.

**7.2 Time when a Dispute Resolution Officer may issue a summons**

A Dispute Resolution Officer may issue a summons before the time and date scheduled for a dispute resolution proceeding, or may consider the request as a preliminary matter before the dispute resolution proceeding commences, or after the dispute resolution proceeding has commenced and other evidence has been heard.

**7.3 Conduct money**

When a Dispute Resolution Officer grants a summons, the summons will:

- a) specify that the party who has requested the summons will provide the witness with conduct money in accordance with Schedule 1; and/or
- b) specify that the party who has requested the summons must pay compensation to the witness who is required to provide documents, photographs, video or audio tape evidence, or other physical evidence, for any actual and reasonable costs of providing and delivering those documents, photographs, video or audio tape evidence, or other physical evidence.

**RULE 8 – CONDUCT OF THE DISPUTE RESOLUTION PROCEEDING**

**8.1 Conduct of the dispute resolution proceeding**

The Dispute Resolution Officer must conduct the dispute resolution proceeding in accordance with the Act and the Rules of Procedure.

**8.2 Party may present evidence**

Each party will be given an opportunity to present his or her relevant evidence, as may be determined by the Dispute Resolution Officer.

**8.3 Party may be represented or assisted**

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

**8.4 Scope of dispute resolution proceeding and decision**

The Dispute Resolution Officer must accept evidence only on the matters stated on the Application for Dispute Resolution unless, at the request of a party made at the start of the dispute resolution proceeding, the Dispute Resolution Officer permits an amendment to the application to include other related matters that may be the subject of an Application for Dispute Resolution between the parties.

In considering whether to permit an amendment to an application at the start of a dispute resolution proceeding to include other related matters, the Dispute Resolution Officer will consider whether the amendment would prejudice the other party, or result in a breach of the principles of natural justice and the Dispute Resolution Officer must:

- a) allow the other party the opportunity to make argument that the dispute resolution proceeding of the combined matters or of the additional matter or matters be adjourned; and
- b) rule whether to adjourn in accordance with Rule 6.4 [criteria for granting an adjournment] and give a reason for granting or refusing the adjournment. The Dispute Resolution Office may give reasons in accordance with Rule 6.7 [written reasons for an adjournment].

**8.5 Form of dispute resolution proceeding**

A dispute resolution proceeding may include submissions:

- a) made orally in-person or by conference call; or
- b) made in writing;

but another party to the dispute resolution proceeding must be given an opportunity to respond to the submission(s) at that the same time or at a later time and in the manner the Dispute Resolution Officer considers appropriate.

**8.6 Communication with the Dispute Resolution Officer**

Unless a specific instruction has been given by the Dispute Resolution Officer, all communication with the Dispute Resolution Officer before and after the dispute resolution proceeding must be in writing and a copy must be given to the other party.

**8.7 Interruptions and inappropriate behaviour at the dispute resolution proceeding**

Disrupting the other party's presentation with questions or comments will not be permitted. The Dispute Resolution Officer may give directions to a party, to a party's agent or representative, a witness, or any other person in attendance at a dispute resolution proceeding who presents rude, antagonistic or inappropriate behaviour. A person who does not comply with the Dispute Resolution Officer's direction may be excluded from the dispute resolution proceeding and the Dispute Resolution Officer may proceed with the dispute resolution proceeding in the absence of the excluded party.

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| <b>RULE 9 – RECORDING OF A DISPUTE RESOLUTION PROCEEDING</b> |
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**9.1 Private recording**

Private audio, photographic, video or digital recording of the dispute resolution proceeding is not permitted.

**9.2 Official recording**

A party requesting an official recording by a court reporter must provide written notice stating the reasons for the request, to the other party and to the Residential Tenancy Branch at least two (2) business days in advance of the dispute resolution proceeding. A Dispute Resolution Officer will determine whether to grant the request and will provide written reasons, if requested.

If permission is granted for an official recording of the dispute resolution proceeding by a court reporter, the party making the request must:

- (a) make all necessary arrangements for attendance by a court reporter and court reporter's necessary equipment;
- (b) pay the cost of the court reporter's attendance at the dispute resolution proceeding, and the recording; and

- (c) must provide all parties with copies of the recording, transcript, or both, as ordered by the Dispute Resolution Officer.

**RULE 10 – INTRODUCTIONS AND PRELIMINARY MATTERS**

**10.1 Commencement of the dispute resolution proceeding**

The dispute resolution proceeding must commence at the scheduled time unless otherwise decided by the Dispute Resolution Officer. The Dispute Resolution Officer may conduct the dispute resolution proceeding in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

**10.2 Introduction to the dispute resolution proceeding**

At the beginning of the dispute resolution proceeding, the Dispute Resolution Officer must explain how the dispute resolution proceeding will proceed and must answer relevant questions the parties may have about the dispute resolution process.

**10.3 Preliminary matters**

Upon request, the Dispute Resolution Officer must consider any preliminary matters, including but not limited to questions of jurisdiction, substituted service, adjournment, adding a related matter, amending the application, and summoning a witness or documents or photographs, video or audio tape evidence, or other physical evidence.

**10.4 Authority to act as agent or provide assistance to a party**

A Dispute Resolution Officer may require an agent to provide proof of his or her appointment to represent a party and may adjourn a dispute resolution proceeding for this purpose.

**RULE 11 – PRESENTING EVIDENCE AND WITNESSES AT THE DISPUTE RESOLUTION PROCEEDING**

**11.1 Order of presentation**

The applicant will present his or her case and evidence first unless the Dispute Resolution Officer decides otherwise, or where a tenant applies to set aside a Notice to End Tenancy, in which case, the respondent landlord will present his or her case first.

**11.2 Relevance of the evidence**

A party must present only evidence that is relevant to the application being heard. The Dispute Resolution Officer may ask a party to explain the relevance of the



evidence and may decline to hear or accept the evidence if the Dispute Resolution Officer decides that the evidence is not relevant.

**11.3 Personal information not relevant to the proceedings**

A Dispute Resolution Officer may, at the request of the party, permit the party to sever personal information from a document or other material that is being submitted into evidence, providing that the Dispute Resolution Officer first determines that the personal information is not relevant to the proceedings.

**11.4 Evidence that is not provided in advance of the dispute resolution proceeding**

If a party does not provide evidence in advance in accordance with Rule 3.1 [documents that must be served] and Rule 3.5 [evidence not filed with the Application for Dispute Resolution], that party must bring to the dispute resolution proceeding sufficient copies of that evidence for all of the parties and the Dispute Resolution Officer. The Dispute Resolution Officer will decide whether to accept this evidence in accordance with Rule 11.5 [Consideration of evidence not provided to the other party or the Residential Tenancy Branch in advance of the dispute resolution proceeding].

**11.5 Consideration of evidence not provided to the other party or the Residential Tenancy Branch in advance of the dispute resolution proceeding**

- a) At the dispute resolution proceeding, a party may request that the Dispute Resolution Officer accept any evidence that was not provided to the other party or the Residential Tenancy Branch in advance of the dispute resolution proceeding as required by the Rules of Procedure and must satisfy the Dispute Resolution Officer that the evidence is relevant.
- b) The Dispute Resolution Officer may refuse to accept the evidence if the Dispute Resolution Officer determines that there has been a willful or recurring failure to comply with the Act or the Rules of Procedure, 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.
- c) If the Dispute Resolution Officer decides to accept the evidence, the other party will be given an opportunity to review the evidence and request that the matter be adjourned. The Dispute Resolution Officer must apply Rule 6.4 [criteria for granting an adjournment] and rule whether to adjourn the dispute resolution proceeding.

**11.6 Evidence not received by the Dispute Resolution Officer**

The Dispute Resolution Officer may adjourn a dispute resolution proceeding to receive evidence that a party states was submitted to the Residential Tenancy Branch but was not received by the Dispute Resolution Officer before the dispute resolution proceeding.

**11.7 Original evidence**

A party must bring the original of any document, if available, to be presented into evidence at the dispute resolution proceeding and make the original available to the Dispute Resolution Officer if requested to do so. The Dispute Resolution Officer has the authority to direct that the original be placed into evidence rather than a copy or may accept as evidence a legible copy of the document.

**11.8 Audiotape, videotape and other physical evidence**

The Dispute Resolution Officer may accept audiotape, videotape and other physical evidence at the dispute resolution proceeding, provided the other party and the Residential Tenancy Branch have been properly served in accordance with Rule 3.1 [documents that must be served], Rule 3.5 [evidence not filed with the Application for Dispute Resolution], Rule 3.6 [notice of other physical evidence], Rule 4.1 [serving the respondent's evidence] and Rule 4.2 [notice of other physical evidence].

If a party has not complied with Rules 3.1, 3.5, 3.6, 4.1 or 4.2, the Dispute Resolution Officer will apply Rule 11.5 [Consideration of evidence not provided to the other party or the Residential Tenancy Branch in advance of the dispute resolution proceeding].

Parties are required to provide their own audiotape playback equipment and, in some locations may need to provide videotape playback equipment and monitor. Videotape must be in VHS format unless the party provides other compatible playback equipment.

[Note: the Rules of Procedure will be updated to reflect CD/DVD technology when RTB is able to accept and use those formats.]

**11.9 Witnesses' attendance at the dispute resolution proceeding**

Subject to Rule 11.10 [witnesses unable to attend] and Rule 11.11 [exclusion of witnesses and others] parties are responsible for having their witnesses available in-person or by conference call for the dispute resolution proceeding. A witness must be available until he or she is excused by the Dispute Resolution Officer or until the dispute resolution proceeding ends.

**11.10 Witnesses unable to attend**

At the start of a dispute resolution proceeding, a party may request that his or her witness or witnesses be permitted to provide evidence from a different location. The Dispute Resolution Officer will consider any prejudice to the other party when deciding whether to grant the request and may refuse to hear the witness or witnesses or may adjourn the dispute resolution proceeding to allow the witness or witnesses to attend.

**11.11 Exclusion of witnesses and others**

Except as provided by the Act, the Dispute Resolution Officer may exclude witnesses from the in-person or conference call dispute resolution proceeding until called to give evidence and, as the Dispute Resolution Officer considers it appropriate to do so, may exclude any other person from the dispute resolution proceedings.

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| <p><b>RULE 12 – QUESTIONS REGARDING EVIDENCE</b></p> |
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**12.1 Questions regarding evidence**

At the request of the party and/or as directed by the Dispute Resolution Officer, a party will be given an opportunity to ask questions about the other party's evidence.

**12.2 Questions asked through the Dispute Resolution Officer**

Each party may be required to ask questions through the Dispute Resolution Officer:

- a) in order to ensure the relevancy of evidence; or
- b) if a party to a dispute resolution proceeding, presents rude, antagonistic, or improper questions when given the opportunity to directly question another party.

**12.3 Questions by the Dispute Resolution Officer**

The Dispute Resolution Officer may ask questions of a party or witness if necessary:

- a) to determine the relevancy or sufficiency of evidence; or
- b) to assist the Dispute Resolution Officer in reaching a decision.

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| <p><b>RULE 13 – INCLUDING AFFECTED THIRD PARTIES</b></p> |
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**13.1 Respondent may ask that a party be added**

Where permitted by the Act, a respondent may request that a Dispute Resolution Officer add a third party to a dispute resolution proceeding where the respondent has a claim against that third party, arising from the claim of the applicant.

**13.2 Adjournment may be requested to add a third party**

A respondent may request an adjournment of a dispute resolution proceeding for the purpose of adding a third party under this Rule, and the Dispute Resolution

Officer will apply Rule 6.4 [criteria for granting an adjournment] in deciding whether to allow the adjournment.

**13.3 Dispute Resolution Officer may impose directions**

The Dispute Resolution Officer may impose directions upon a party respecting service of the copies of the Application for Dispute Resolution, the notice of the reconvened dispute resolution proceeding, and copies of relevant evidence on the third party.

**13.4 Third party will have opportunity to present evidence**

The third party will have an opportunity at the reconvened dispute resolution proceeding to present relevant evidence, including an opportunity to make a submission to the Dispute Resolution Officer that the party is not properly a third party to the Application for Dispute Resolution.

**13.5 Dispute Resolution Officer may make order against third party**

After the respondent has complied with the directions of the Dispute Resolution Officer imposed under Rule 13.3 [Dispute Resolution Officer may impose directions] and the third party has been given an opportunity to present evidence and make a submission, the Dispute Resolution Officer may make an order against a third party as permitted under the Act, regardless of whether or not the third party appears at or participates in the dispute resolution proceeding.

**13.6 Dispute Resolution Officer may require that a tenant who is materially affected be given notice of an Application for Dispute Resolution**

The Dispute Resolution Officer may determine, in accordance with the Act, that a tenant may be materially affected by the dispute resolution proceeding and will adjourn the dispute resolution proceeding to allow the materially affected tenant an opportunity to participate in the proceeding. The Dispute Resolution Officer will direct that the applicant and/or the respondent must serve the affected tenant with a copy of the Application for Dispute Resolution, a copy of the notice of the date and time scheduled for the continuation of the dispute resolution proceeding, and with copies of all relevant evidence.

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| <b>RULE 14 – CONCLUSION OF A DISPUTE RESOLUTION PROCEEDING</b> |
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**14.1 Permission for additional evidence to be submitted after the dispute resolution proceeding**

No additional evidence may be submitted after the dispute resolution proceeding, except with the permission of the Dispute Resolution Officer and only if the Dispute Resolution Officer has not formally concluded the dispute resolution proceeding. If permission is given, the Dispute Resolution Officer will:

- a) specify the date by which the evidence must be submitted to the Residential Tenancy Branch and served on the other party;
- b) provide an opportunity for the other party to respond to the additional evidence; and
- c) specify the date that the dispute resolution proceeding will be concluded.

**14.2 Concluding the dispute resolution proceeding**

The dispute resolution proceeding is concluded when the Dispute Resolution Officer determines that it is concluded.

**RULE 15 – CONFERENCE CALL DISPUTE RESOLUTION PROCEEDINGS**

**15.1 Application of the Rules of Procedure to conference call dispute resolution proceedings**

Except as may be determined appropriate by the Dispute Resolution Officer, the Rules of Procedure that apply to in-person dispute resolution proceedings apply to conference call dispute resolution proceedings.

**15.2 Delay in the start of a conference call dispute resolution proceeding**

In the event of a delay of a start of a conference call dispute resolution proceeding, each party must remain available for the conference dispute resolution proceeding for up to forty-five (45) minutes after the time scheduled for the start of the conference call.

**15.3 Identification of people present at conference call dispute resolution proceeding**

Each party must identify all people who are present at that party's location or who attend that location while the dispute resolution proceeding is in progress.

**RULE 16 – THE DISPUTE RESOLUTION OFFICER'S DECISION AND ORDER**

**16.1 Dispute resolution proceeding concluded by agreement of the parties**

After the conclusion of a dispute resolution proceeding in which the parties have reached an agreement, the Dispute Resolution Officer must do the following, promptly and in any event within the 30-day time limit provided generally for written reasons under the Act:

- a) record the terms of the agreement in a decision; and
- b) if appropriate, prepare an order.

**16.2 Enforceability of an order prepared under Rule 16.1**

An order prepared by a Dispute Resolution Office under Rule 16.1 [dispute resolution proceeding concluded by agreement of the parties] has the same force and effect as if the Dispute Resolution Officer made the decision without the agreement of the parties, including but not limited to the enforceability of the order by a court.

**16.3 Dispute resolution proceeding concluded without the parties reaching agreement**

After the conclusion of a dispute resolution proceeding in which the parties have not reached an agreement, the Dispute Resolution Officer must do the following:

- a) in the case of a non-manufactured home pad rent review, provide an oral decision immediately and provide a written decision and order within ten (10) days;
- b) in all other cases, provide an oral decision immediately and provide a written decision, and order; or
- c) reserve the decision and provide a written decision, and order if appropriate, promptly and in any event within the thirty (30) day time limit provided generally for written reasons under the Act.

**16.4 Service of order**

If the Dispute Resolution Officer sets conditions for service of a decision or order, the decision or order must set out any requirement for timing or method of service.

**16.5 Original decisions**

The Dispute Resolution Officer must provide original signed decisions to all parties to a dispute resolution proceeding, unless a current address for a party is not available, place a signed original decision in the dispute resolution file, and upload an electronic copy of the decision to the Residential Tenancy Branch's Case Management System. If the Dispute Resolution Office directs one party to serve a copy of the decision on the other party, an additional original decision will be provided for that purpose.

**16.6 Original orders**

The Dispute Resolution Officer must provide a sufficient number of signed original orders to the recipient of the order to permit service and enforcement in the court, place a signed original order in the dispute resolution file, and upload an electronic copy of the order to the Residential Tenancy Branch's Case Management System.

**RULE 17 – NON-COMPLIANCE WITH THE RULES OF PROCEDURE**

**17.1 Non-compliance with the Rules of Procedure**

A Dispute Resolution Officer may consider any breach of these Rules in determining payment or re-payment of the filing fee.

**17.2 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.

**RULE 18 – ACT TAKES PRECEDENCE**

**18.1 Conflicts between the Rules of Procedure and the Act**

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

**RULE 19 - TRANSITION**

**19.1 Effective date of these Rules of Procedure**

These Rules of Procedure take effect on October 1, 2006 and apply to:

- a) Applications for Dispute Resolution that that are submitted to the Residential Tenancy Branch on or after October 1, 2006, in-person, by fax or on-line, and to the dispute resolution proceedings that are commenced by those applications;
- b) dispute resolution proceedings commenced by an Applications for Arbitration that were filed prior to October 1, 2006 and for which an Application for Dispute Resolution is filed as a cross-application, except to the extent that a Dispute Resolution Officer determines that the application of these Rules of Procedure would prejudice the party who applied for arbitration, or would result in a breach of the principles of natural justice. In determining the extent to which the old Rules of Procedure should be applied, the Dispute Resolution Officer 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 or the former Rules.

**19.2 Continued application of the Rules of Procedure dated September 1, 2005**

The Rules of Procedure dated September 1, 2005, continue in effect and will apply to Applications for Arbitration that were submitted to the Residential Tenancy Branch prior to September 30, except in the circumstances in paragraph b) of Rule 19.1 [Effective date of these Rules of Procedure].

**SCHEDULE 1 – FEES PAYABLE TO WITNESSES SUMMONED TO TESTIFY**

In all cases in which a witness is summoned to attend an arbitration hearing, the following daily witness fees and fees for travel and meals are payable, and will be given in advance by the party requiring the attendance of the witness.

**Daily witness fee**

1. For any witness other than a party or a current officer, director, or partner of a party to a proceeding, for each day or part of a day, a daily witness fee of \$20. A witness who is a party of a current officer, director, or partner of a party to the proceeding is not entitled to a daily witness fee.

**Travel**

2. For any witness where the hearing is held at a place:
  - (a) within 200 km by road including any ferry route within the provincial British Columbia road system of where the witness resides and the place of the hearing; but no travel allowance will be made if the distance by road between the residence and the place of hearing is less than 8 km. This allowance includes ferry rates and road tolls,
  - or
  - (b) more than 200 km from where the witness resides, the minimum return air fare by scheduled airline plus 47 cents per km each way from his or her residence to the departure airport and from the arrival airport to the place of the hearing.

**Allowances**

If meal expenses are required because a witness has been summoned to testify and, if the witness is on travel status (more than 50 km one way from his or her home to the hearing location), the party summoning the witness will provide the witness with the following meal allowances:

|                |         |  |                         |         |
|----------------|---------|--|-------------------------|---------|
| Breakfast only | \$22.00 |  | Breakfast & lunch only  | \$30.00 |
| Lunch only     | \$22.00 |  | Lunch & dinner only     | \$36.50 |
| Dinner only    | \$28.50 |  | Breakfast & dinner only | \$36.50 |
| Full Day       | \$46.00 |  |                         |         |

If the witness is on travel status and is required to remain overnight, an allowance for overnight accommodation must also be provided by the party summoning the witness. Overnight accommodation expenses must be paid in accordance with the following:

| Winter Rates<br>(October – April) |      | Summer Rates<br>(May – September) |       |
|-----------------------------------|------|-----------------------------------|-------|
| Victoria                          | \$70 | Victoria                          | \$95  |
| Vancouver area                    | \$80 | Vancouver area                    | \$115 |
| Other                             | \$65 | Other                             | \$70  |