

Residential Tenancy Branch
Rules of Procedure

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Definitions

Act the Residential Tenancy Act or Manufactured Home Park Tenancy Act, as applicable.

Adjournment the determination by an arbitrator that a dispute resolution proceeding will be reconvened at a later date, either at the request of one or both of the parties, or on the arbitrator's own initiative.

Advocate a person who provides assistance to a party.

Agent a person appointed by a party to act on that party's behalf.

Applicant a landlord or tenant who applies for dispute resolution by completing an Application for Dispute Resolution, having it accepted by the Residential Tenancy Branch and paying any required fee.

Cross application an Application for Dispute Resolution made to counter an existing application or made in response to a related Application for Dispute Resolution.

Days

- a) If the time for doing an act falls or expires on a holiday, the time is extended to the next day that is not a holiday.
- b) If the time for doing an act in a business office falls or expires on a day when the office is not open during regular business hours, the time is extended to the next day that the office is open.
- c) In the calculation of time expressed as clear days, weeks, months or years, or as "at least" or "not less than" a number of days, weeks, months or years, the first and last days must be excluded.
- d) In the calculation of time not referred to in subsection (c), the first day must be excluded and the last day included.

Decision a conclusion or determination of the arbitrator which legally resolves the matters outlined in the Application for Dispute Resolution, including orders, if necessary to implement the decision.

Dispute resolution proceeding a legal process initiated by a landlord or a tenant by filing by an Application for Dispute Resolution for the purpose of obtaining a legally binding decision from an independent decision-maker, including:

- a) a proceeding conducted by an arbitrator that resolves disputes without a formal dispute resolution proceeding, 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.

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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, video recordings, audio recordings;
- Oral statements of the parties or witnesses given under oath or affirmation.

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

Party the applicant or respondent named on the Application for Dispute Resolution or added to the application by an arbitrator, and an officer representing a business named in the application, but does not include witnesses, family members, and other persons not named on the application. “Party” may include multiple applicants or respondents.

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].

Reasons the grounds and conclusions on which an arbitrator has based a decision, including both findings of fact and law.

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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.

Reserve the act of an arbitrator 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.

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 filed, that designates a time, date, and place for the dispute resolution hearing to be commenced, including a determination whether the dispute resolution hearing will be conducted in-person, or conference call, or by written submissions. *Reschedule* is the act of the Residential Tenancy Branch of designate a different time, date and place for the dispute resolution hearing to commence or be reconvened, including a determination whether the rescheduled dispute resolution hearing will be conducted by conference call, through written submissions or face to face.

Serve the formal legal manner of giving a party required documents and evidence as set out in the Act.

Sever to delete or strike-over information in such a way that the information is no longer legible.

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 an application for dispute resolution and file it with the Residential Tenancy Branch.

2.2 Identifying issues on the application for dispute resolution

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

[see also Rule 8.4 Scope of dispute resolution proceeding and decision]

2.3 Related issues

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

Filing an application

2.4 Submit application for dispute resolution

An applicant for dispute resolution must submit an application for dispute resolution with the required fee or fee waiver documents.

2.5 Documents that must be submitted with an application for dispute resolution

To the extent possible, at the same time as the application is submitted to the Residential Tenancy Branch, the applicant must submit to the Residential Tenancy Branch:

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

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

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

The application for dispute resolution has been filed when it has been submitted and the fee is paid or all documents for a fee waiver are submitted to the Residential Tenancy Branch directly or at a Service BC office.

2.7 One or more respondents

An applicant(s) may name more than one respondent in the application for dispute resolution.

2.8 Maximum amount of monetary claim

An applicant who has a claim amounting to more than \$25,000.00 may abandon part of the claim so that the balance of the claim may be heard by the Arbitrator.

2.9 No divided claims

An applicant may not divide a claim.

2.10 Joining applications

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

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

2.11 Amending an application before the dispute resolution hearing

The applicant may amend the application without consent if the dispute resolution hearing 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 on each respondent as soon as possible.

If the application has been served, a copy of the amended application must be served on each respondent so that they receive it at least 14 days before the scheduled date for dispute resolution hearing.

An amended application must be clearly identified, and be provided separately from all other documents. All evidence to support an amended application must be served on the other party and submitted to the Residential Tenancy Branch at

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the same time as the amended application is served and submitted. (See Rule 3 – *Serving the Application and Submitting and Exchanging Evidence*).

Making a cross application for dispute resolution

2.12 Filing an application for dispute resolution to counter a claim

To counter an existing application for dispute resolution or in response to a related application for dispute resolution, respondents may make a cross application by filing their own application for dispute resolution.

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

When making a cross-application, a party must apply as soon as possible and so that the service provisions in Rule 3.15 are met.

2.13 Identify file being countered

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

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

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

2.15 Scheduling a cross application for dispute resolution

When the requirements of Rules 2.12, 2.13, and 2.14 have been met, and it is possible to satisfy Rule 3.3, the Residential Tenancy Branch will schedule the cross application hearing with the same Arbitrator for the same date and time as the hearing for the matter being countered or responded to.

Rule 3 – Serving the Application and Submitting and Exchanging Evidence

3.1 Documents that must be served

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

- a) the application for dispute resolution
- b) the notice of dispute resolution proceeding letter provided to the applicant by the Residential Tenancy Branch;
- c) the dispute resolution proceeding information package provided by the Residential Tenancy Branch;
- d) a detailed calculation of any monetary claim being made;

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- e) 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
- f) any other evidence, including evidence submitted to the Residential Tenancy Branch with the application for dispute resolution, in accordance with Rule 2.5 [*Documents that must be submitted with an application for dispute resolution*].

3.2 Evidence relating to an Early End to a Tenancy.

When a landlord is seeking an early end to the tenancy, the landlord must submit to the Residential Tenancy Branch all evidence with the application for dispute resolution, or, when applying for dispute resolution online, the next day. All evidence to be relied on at the hearing must be served on the respondent with the Notice of Hearing package described in Rule 3.1 [*Documents that must be served*].

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 filed;
- be served on the other party at the same time as the hearing package for the cross application is served; and
- be received by the other party and the Residential Tenancy Branch not less than 7 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 for an order for substituted service.

An application for substituted service must show that the applicant made reasonable attempts to serve the respondent or provide evidence that shows the other party is unlikely to receive material if served according to the Act.

An application for substituted service that is made at the hearing may result in an adjournment.

3.5 Proof of service required at the dispute resolution hearing

At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the Arbitrator that each respondent was served with the hearing package and all evidence, as required by the Act.

3.6 Evidence must be relevant

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

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

3.7 Evidence must be organized, clear and legible.

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

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

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

To ensure fairness and efficiency, an Arbitrator has the discretion to not consider evidence if the Arbitrator determines it is not readily identifiable, organized, clear and legible.

3.8 Original evidence

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

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

3.9 Physical evidence

No physical evidence will be accepted.

3.10 Digital evidence

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

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

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

To ensure a fair, efficient and effective process, identical digital evidence and the accompanying printed description must be served on each Respondent and submitted to the Residential Tenancy Branch.

The format of digital evidence must be accessible to all parties. Before the hearing, the party submitting the digital evidence must determine that the other party and the Residential Tenancy Branch have playback equipment or are otherwise able to gain access to the evidence. If a party asks another party about their ability to gain access to a particular format, device or platform, the other party must reply as soon as possible, and in any event so that all parties have 7 days with full access to the evidence. If a party is unable to access the digital

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evidence, the Arbitrator may determine that the digital evidence will not be considered.

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 so that the party submitting and serving digital evidence can meet the requirements of Rules 3.14 and 3.15.

The submission and service of digital evidence must meet the time requirements for filing and service established in Rule 3.1, 3.2, 3.14 and Rule 3.15.

Regardless of how evidence is accessed during a hearing, the party providing digital evidence must provide the Residential Tenancy Branch 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 an 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

An 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 Order made through the dispute resolution process, or if, for some other reason, the acceptance of the evidence would prejudice the other party or result in a breach of the principles of natural justice.

3.13 Applicant evidence provided in single package

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

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

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

Documentary and digital evidence that is intended to be relied on at the hearing must be received by the respondent and the Residential Tenancy Branch 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

To ensure fairness and to the extent possible, the respondent's evidence must be organized, clear and legible.

The respondent must ensure documents and digital evidence that are intended to be relied on at the hearing are served on the applicant and submitted to the

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Residential Tenancy Branch as soon as possible. In all events, the respondent's evidence must be received by the applicant and the Residential Tenancy Branch not less than 7 days before the hearing.

In the event that evidence is not available when the respondent submits and serves their evidence, the Arbitrator will apply Rule 3.17 [*Consideration of new and relevant evidence*].

See also Rules 3.7 [*Evidence must be organized, clear and legible*] and 3.10 [*Digital evidence*]

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.

3.17 Consideration of new and relevant evidence.

Evidence not provided to the other party and the Residential Tenancy Branch in accordance with Rules 3.1, 3.2, 3.10, 3.14 and 3.15 may or may not be considered depending on whether the party can show to the Arbitrator that it is new and relevant evidence and that it was not available at the time that their application was filed 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.

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 6.3 [*Whether to adjourn the dispute resolution proceeding*] and Rule 6.4 [*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 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 and whether it must be served on the other party; and

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

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

Rule 4 – Serving the Respondent’s Evidence

4.1 Serving the respondent’s evidence

This rule has been replaced by Rule 3.15 and Rule 3.17. Note: rules 3.6 to 3.12 apply to both the applicant and the respondent.

4.2 Notice of other physical evidence

This rule has been replaced by Rule 3.9.

Rule 5 – Making a Cross Application for Dispute Resolution

5.1 Making a cross application for dispute resolution

This rule has been replaced by Rules 2.9 to 2.12. Note: evidence requirements established in Rule 3.3 and Rules 3.1 and 3.4 to 3.12 apply.

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 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 arbitrator to reschedule the dispute resolution proceeding by:

- a) submitting to the Residential Tenancy Branch, at least 3 business days before the dispute resolution proceeding, a document requesting that the dispute resolution proceeding be rescheduled and setting out the

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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 arbitrator 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 arbitrator may adjourn the dispute resolution proceeding to a later time at the request of any party or on the arbitrator's own initiative.

6.4 Criteria for granting an adjournment

Without restricting the authority of the arbitrator to consider other factors, the arbitrator 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];
- 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 arbitrator 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 arbitrator 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 arbitrator 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 arbitrator may dismiss the application with or without leave to re-apply. If the respondent is unwilling to proceed, the arbitrator may proceed with the dispute resolution proceeding and may conclude the dispute resolution proceeding and make a decision or order.

Rule 7 – Summons

7.1 Application for a summons to testify

A request to an arbitrator 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 , 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 an arbitrator may issue a summons

An arbitrator 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 an arbitrator 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 evidence, or other physical evidence, for any actual and reasonable costs of providing and delivering those documents, photographs, video or audio evidence, or other physical evidence.

Rule 8 – Conduct of the Dispute Resolution Proceeding

8.1 Conduct of the dispute resolution hearing

The arbitrator 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 arbitrator.

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 arbitrator 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 arbitrator 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 arbitrator will consider whether the amendment would prejudice the other party, or result in a breach of the principles of natural justice and the arbitrator must:

- a) allow the other party the opportunity to argue 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.

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 arbitrator considers appropriate.

8.6 Communication with the arbitrator

Unless a specific instruction has been given by the arbitrator, all communication with the arbitrator 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 arbitrator 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 arbitrator's direction may be excluded from the dispute resolution proceeding and the arbitrator may proceed with the dispute resolution proceeding in the absence of the excluded party.

Rule 9 – Recording of a Dispute Resolution Proceeding

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 2 business days in advance of the dispute resolution proceeding. An arbitrator 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; and
- c) must provide all parties with copies of the recording, transcript, or both, as ordered by the arbitrator.

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 arbitrator. The arbitrator 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 arbitrator 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 arbitrator 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 evidence, or other physical evidence.

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

An arbitrator 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 arbitrator 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

This Rule has been replaced by Rule 3.6 [*Evidence must be relevant*]

11.3 Personal information not relevant to the proceedings

An arbitrator 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 arbitrator 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

This Rule has been replaced by Rule 3.14 and 3.17.

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

This Rule has been replaced by Rule 3.17.

11.6 Evidence not received by the arbitrator

This Rule has been replaced by Rule 3.18.

11.7 Original evidence

This Rule has been replaced by Rule 3.8.

11.8 Digital evidence

This Rule has been replaced by Rule 3.10

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 arbitrator 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.

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The arbitrator 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 arbitrator may exclude witnesses from the in-person or conference call dispute resolution proceeding until called to give evidence and, as the arbitrator considers it appropriate to do so, may exclude any other person from the dispute resolution proceedings.

Rule 12 – Questions Regarding Evidence

12.1 Questions regarding evidence

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

12.2 Questions asked through the arbitrator

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

- 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 arbitrator

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

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

Rule 13 – Including Affected Third Parties

13.1 Respondent may ask that a party be added

Where permitted by the Act, a respondent may request that an arbitrator 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 arbitrator will apply Rule 6.4 [criteria for granting an adjournment] in deciding whether to allow the adjournment.

13.3 Arbitrator may impose directions

The arbitrator 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 arbitrator that the party is not properly a third party to the Application for Dispute Resolution.

13.5 Arbitrator may make order against third party

After the respondent has complied with the directions of the arbitrator imposed under Rule 13.3 [Arbitrator may impose directions] and the third party has been given an opportunity to present evidence and make a submission, the arbitrator 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 Arbitrator may require that a tenant who is materially affected be given notice of an Application for Dispute Resolution

The arbitrator 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 arbitrator 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.

Rule 14 – Conclusion of a Dispute Resolution Proceeding

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 arbitrator and only if the arbitrator has not formally concluded the dispute resolution proceeding. If permission is given, the arbitrator 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 arbitrator 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 arbitrator, 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 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 Arbitrator'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 arbitrator 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 an Arbitrator under Rule 16.1 [Dispute resolution proceeding concluded by agreement of the parties] has the same force and effect as if the arbitrator made the decision without the agreement of the parties, including but not limited to the enforceability of the order by a court.

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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 arbitrator must provide a written decision as soon as possible.

16.4 Service of order

If the arbitrator 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 decision

An original decision, signed by pen or through electronic means by the Residential Tenancy Branch, is provided to each party as well as to the Residential Tenancy Branch.

16.6 Original Order

A sufficient number of original orders, signed by pen or through electronic means, is provided by the Residential Tenancy Branch to the recipient of the order to permit service and enforcement through the court.

A sufficient number of original orders, signed by pen or through electronic means, is provided to satisfy the Residential Tenancy Branch's record keeping requirements.

Rule 17 – Non-compliance with the Rules of Procedure

17.1 Non-compliance with the Rules of Procedure

An arbitrator 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 June 28, 2014 and apply to:

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- a) Applications for Dispute Resolution that that are submitted to the Residential Tenancy Branch directly or at a Service BC office on or after June 28, 2014, 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 Application for Dispute Resolution that were filed prior to June 28, 2014 and for which an Application for Dispute Resolution is filed as a cross-application, except to the extent that an arbitrator determines that the application of these 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 the old 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 or the former Rules.

19.2 Continued application of the Rules of Procedure dated October 1, 2006

The Rules of Procedure dated October 1, 2006 continue in effect and will apply to Applications for Dispute Resolution that were submitted to the Residential Tenancy Branch prior to June 28, 2014, except in the circumstances in paragraph b) of Rule 19.1 [*Effective date of these Rules of Procedure*].

Schedule 1 – Expenses Payable to Witnesses Summoned to Testify

In all cases in which a witness is summoned to attend an arbitration hearing, the following daily expenses for travel and meals are payable, and will be given in advance by the party requiring the attendance of the witness. The expenses listed below are effective July 22, 2007.

Daily witness expense

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 expense 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 expense.

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 48 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	\$47.50		

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:

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