



Residential Tenancy Branch Disputes Preparing for the Hearing

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BC Non-Profit Housing Association 2016 Conference

November 22, 2016

Learning Objectives

A. Strategies for Success:

- Knowing your rights and obligations;
- Knowing the case: Issues, Strengths and Pitfalls;
- Gathering and preparing documents (i.e. your evidence)

Learning Objectives

B. Prepare yourself for the hearing:

- Understand what happens at the hearing;
- Presenting your case;
- Presenting your evidence;
- Other tips and lawyer's secrets.

Strategies for Success

1. Knowing Your Rights and Obligations

- Many resources: *Residential Tenancy Act, Residential Tenancy Regulations, Rules, RTB Website, Guides, previous RTB decisions with similar issues or facts, Landlord Tenant lawyer.*
- Website: www2.gov.bc.ca

Strategies for Success

Example:

Residential Tenancy Act (“RTA”)

- **RTA Part 2 deals with rights and obligations of Landlords and Tenants.**
 - **S.32 Landlord and Tenants obligations to repair and maintain.**
 - **S.29 Terminating and Restricting Services or Facilities.**
 - **S.26 Rules about payment and non-payment of rent.**

Strategies for Success

- **RTA Part 4 deals with How to End a Tenancy**
 - **S.44 - 51 Discuss the types of notice required or available to provide the other party in order to end a tenancy.**
 - **S.52 Form and content of notice to end tenancy.**

Strategies for Success

2. Gathering and Preparing Documents

- Understanding issues in your case, what you are asking for or what the other side is asking for and gather all documents that you have that are relevant to presenting your arguments and to response to other side's claims.

Strategies for Success

- Example: If a landlord is claiming for compensation (e.g. deduction from a security deposit) because the Tenant damaged the rental suite beyond reasonable wear and year and the Tenant claims the suite is in the same state as upon moving in, then relevant documents could include: Tenancy Agreement, Condition Inspection Report at beginning and end of tenancy.

Strategies for Success

- Correspondence or witness statements relating to the damage or requests for repair, photographs or video recordings of damage and condition of rental until prior to the tenancy, expert oral testimony or written statements and price quotations relating to damage and required repairs etc.

Strategies for Success

Lawyer's Secret:

Think about what it is you have to prove.

Figure out the main issues in your case and how you will argue for your side or defend your position. Make a “cheat sheet” of those arguments and underneath each argument of defense, brainstorm the types of documents or evidence that you have or will need to support the argument or defense. Then find that evidence and submit it!

Strategies for Success

3. Preparing Yourself for the Hearing – understanding what happens at the Hearing.

- Generally: RTB Arbitrator hears evidence from both sides, considers the evidence presented, and makes a decision (RTB has up to 30 days to issue a written decision, with reasons).
- RTB Hearing Package: Both applicant and respondent receive copies from RTB. Contains information on hearing date and time, how to serve evidence and prepare for the hearing.

Strategies for Success

- Monetary Jurisdiction of RTB: Monetary Claims for up to \$25,000. If more, then pursue claims through Supreme Court of British Columbia.
- The Hearing: takes place when scheduled, can be over phone (usually) or in person (rare, but can be accommodated upon prior RTB request), and usually lasts 1 hour, but can be more or less. If Hearing lasts for more than 2 hours usually adjourned to another date. Can be a week or months later. All applicants and respondents must attend the Hearing.

Strategies for Success

- **Joined Applications:** multiple applications from different tenants may be joined when dealing with the same landlord or issue (Tenant's Request to Join Applications for Dispute Resolution). Multiple landlord applications may be joined when multiple applications related to one tenancy agreement (Landlord's Request to Join Applications for Dispute Resolution)

Strategies for Success

- **Cross-Applications:** either party may inform RTB to schedule 1 hearing for multiple applications or RTB may choose to schedule 1 hearing. Used when applications related to same tenant, same landlord, same property, and same or similar issues.
- **Decisions:** Are binding and can include results asked for and results that the Arbitrator decides are appropriate or just in the circumstances, subject to the Act, Regulations, and Rules. Settlements can also be reached and be recorded as decisions/orders.

Strategies for Success

Lawyer's Secret:

- Keep the Notice of Hearing visible during your hearing. It contains a lot of important and basic information about how to call in to the hearing (if by telephone conference), the names of parties, your file number etc.

Strategies for Success

Lawyer's Secret:

- Very useful to have summary of your side of the story (e.g., your arguments) submitted along with your actual evidence – this way, the arbitrator can have sense of your arguments before you present them. A lawyer can assist you with this.

Strategies for Success

4. Knowing the Case: Issues, Strengths and Pitfalls

- Facts – know the relevant facts of your case (e.g. dates and methods of service of relevant documents, dates and particulars of a tenancy agreement, be prepared to explain any invoices for repairs or amounts claims (e.g. if seeking monetary compensation).

Strategies for Success

Lawyer's Secret:

- Make a 'Cheat Sheet' for yourself of all the relevant dates and methods of service pertaining to particular documents, with reference to where in your filed materials you can find this proof of service (e.g., a Canada Post print out of delivery by registered mail). The arbitrator will appreciate your efficiency and organization when they ask for this information!

Strategies for Success

- **Strengths:** What are your strongest arguments? You can't say everything. List them out and practice explaining them, while introducing evidence. Remember what you are trying to achieve in your application and stick to arguments and evidence that support same!
- **Pitfalls:** Be prepared to defend against the other party's claims (e.g., with evidence). Answer the Arbitrator's questions truthfully and succinctly about any problems or discrepancies in your case. However, do not focus on weaker points of your case, but don't ignore them either. Focus on your strongest points, but be prepared to deal with the weaker points.

Strategies for Success

Lawyer's Secret:

- Draft a 'Cheat Sheet' for yourself of bullet points summarizing your main arguments (and defenses), with reference to the submitted evidence that supports those arguments. Make sure to add page numbers for ease of access (for you and the arbitrator).

Strategies for Success

Lawyer's Secret:

- As you go through the hearing or your presentation of the case, check off the arguments (and evidence) that you want to make sure is presented. This is helpful when you get interrupted or side-tracked onto another matter (happens often). You will be able to go back to complete your presentation later and you will know which remaining points to cover.

Strategies for Success

- **Example:** If the issue is eviction, then proving proper service of the appropriate notice and ensuring the form and content of the notice are followed is vital. Especially relevant are copies of any notices, statements of witnesses that re: proof of service, any correspondence or proof relating to the reason for the notice (e.g., if related to illegal activities, police reports or witness statements are useful).

Preparing Yourself for the Hearing

5. Presenting your Case/Evidence

- Number pages, use a table of contents, know your best arguments and the location/description of facts to support same
- Review the other parties evidence or arguments if any submitted and be prepared to explain any discrepancies or defend your actions

Preparing Yourself for the Hearing

Lawyer's Secret:

- Have checklist of the major points and evidence that need to be addressed (follow checklist). However, Arbitrator is the one that, at the end of the day, you need to convince. So, listen to what the Arbitrator is asking you and if it means moving on to a different piece of evidence/argument, then move on. You can always return to the point later if necessary.

Preparing Yourself for the Hearing

- Evidence is generally anything submitted to RTB and other parties and presented at Hearing (e.g., written documents (e.g., leases, signed/dated statements), digital video or audio recordings, photographs, emails, agreements, statements, oral testimony of witnesses or parties at hearing). Physical objects (e.g., hammer, piece of fabric) not accepted. Photos or digital recordings suggested instead.

Preparing Yourself for the Hearing

Lawyer's Secret:

- Be aware of rules for labelling this kind of digital evidence (e.g., descriptions, deadlines for submitting evidence, ensure all parties can access evidence).
- Submitting Evidence: Serve according to Act and Rules. Evidence must be organized, accessible/readable (e.g., number pages, use descriptions for photos, table of contents, labelling USB sticks or other devices) (e.g., see *Rules 3.7 and 3.10)

Preparing Yourself for the Hearing

6. Other Tips:

- **Demeanor:** calm, organized, forthright, clear voice, succinct answers to simple questions; for detailed answers, elaborate detail as much as necessary to communicate points effectively
- **Etiquette:** address Arbitrators as Mr. or Ms. _____ unless otherwise specified, avoid interruptions; requests to obtain or provide further information or clarification; avoid name calling and disparaging remarks (e.g., See Rule 8.7)*

Preparing Yourself for the Hearing

- Focus on facts and your best arguments; do not misrepresent the truth or avoid answering the Arbitrator's questions; do not focus on pitfalls in your case (other side will do that for you), but be prepared to succinctly explain or defend them and move on quickly to your strengths
- Do not argue with the Arbitrator.

Preparing Yourself for the Hearing

Lawyer's Secret:

- Use “Cheat Sheet” to be prepared to show proof of service (Rule 3.16)
- Review the facts of your case, and know the location of evidence that supports those facts (table of contents, with page numbers, is usually required and helpful for all parties to follow); as much as possible, present your evidence in a logical/chronological order.

Preparing Yourself for the Hearing

Lawyer's Secret:

- Know the rules for submitting late evidence to be able to do so yourself or to know when the other side is prohibited from doing so.



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