



# Landlord and Tenant Fact Sheet

RTB-126

## Deadlines for Serving Evidence and Submitting It to the Residential Tenancy Branch

### Rules about evidence

The Residential Tenancy Branch (RTB) has Rules of Procedure (Rules) that include deadlines for serving copies of evidence for both the applicant and the respondent, and for submitting copies of your evidence to RTB. The Rules use the words "at least". These words have a special meaning when you are figuring out the deadlines for serving evidence (and other documents). The words "at least" are explained below in the sections about submitting evidence to RTB and serving it on the other party.

If you do not follow the Rules, a dispute resolution officer (DRO) may refuse to consider your evidence.

Rules of Procedure about evidence and the dispute resolution process are online at [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca), or copies can be obtained from any RTB office or Service BC-Government Agents Office.

### Serving evidence or giving notice that you will bring it to the hearing

Sometimes it is impossible to serve evidence or submit it to the RTB (for example, a sample of a carpet or a broken lock). If you have that kind of evidence and you want to use it at the hearing, then you must give RTB and the other party a written description of the evidence "at least" five (5) days before the hearing. If the DRO believes that you could have served or submitted the evidence in advance, he or she may refuse to accept it or adjourn the hearing to give the other party a fair chance to consider it.

### Submitting evidence to RTB

To the extent that is possible, an applicant must submit copies of all available documents, photographs, video or audio tape evidence to RTB at the same time as the Application for Dispute Resolution is filed.

The respondent must also submit all available evidence to the RTB as soon as possible.

The Rules provide that copies of all evidence and a notice of evidence you intend to bring to the hearing, must be received by the RTB as soon as possible and "at least" five (5) days before the dispute resolution hearing. (Note that this is the date it is received by RTB which will not necessarily be the day you submit it if you are relying on mail or fax.)

When you are figuring out the deadline for submitting evidence to RTB, the words "at least" mean that you must completely exclude:

- the day RTB receives the evidence,
- the day of the hearing, and
- any weekend days or statutory holidays in between.

For example, if the hearing will be on a Tuesday, then the deadline for submitting evidence to RTB is the previous Monday (a week earlier).

### Serving evidence or giving notice of evidence to the other party

Both the applicant and the respondent must serve copies of evidence on each other as soon as possible and "at least" five (5) days before the dispute resolution hearing.

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#### Residential Tenancy Branch

Lower Mainland: 604-660-1020 Victoria: 387-1602 Elsewhere in BC: 1-800-665-8779  
Website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

#RTB-126 (2009/09)

If an applicant or respondent has other evidence they want to use at the hearing that cannot be served or submitted in advance (for example: a sample of a carpet or a broken lock), then they must give the other party a written description of the evidence "*at least*" five (5) days before the hearing.

If the time between the filing of an Application (or being served with the Application) and the hearing date does not allow the five (5) day requirement to be met, then the evidence must be served "*at least*" two (2) days before the hearing.

**How to figure out the deadline for serving evidence or notice on a person.** Count backward from the hearing day. Do not count the hearing day or the day when you serve the evidence. For example, if your deadline is "*at least*" five (5) days and your hearing is on a Friday, then the deadline for serving the evidence (or notice of evidence) on a person is the previous Saturday.

**How to figure out the deadline for serving evidence or notice on a business or in an office.** The only difference between serving evidence on a business/office or on a person is this: if the deadline falls on a weekend or a holiday, then the evidence or notice must be served on the previous business day. For example, if your hearing is on a Friday, then the deadline for serving the evidence on a business that is closed on weekends will be the previous Thursday.

### **What if evidence isn't served or submitted by the deadlines?**

To be fair, the other party must have time to review your evidence before the hearing. Do not wait until the last minute to give them the evidence or they can ask the DRO to adjourn the hearing. If you miss the deadline for serving evidence on the other party, serve it as soon as possible so that the hearing may be able to go ahead at the scheduled time.

If you miss the deadline for submitting evidence to RTB, staff will not accept it. At the time of the hearing, you will have to ask the DRO whether or not he or she will accept it.

You must provide the other party to the dispute with your evidence even if RTB has refused it.

At the hearing you can then tell the DRO why you did not serve or submit the evidence on time and explain why it is important to your case. You can ask the DRO to accept the evidence at the hearing or to postpone the hearing so the evidence can be included at a later date. If the DRO agrees to postpone the hearing so that your evidence can be considered, submit the evidence to the RTB immediately. Do not rely on the 5-day rule. The longer you wait to serve and submit your evidence, the greater the likelihood the evidence will be rejected.

### **For more information ...**

Visit the RTB's Web site at [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca).

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

Lower Mainland: 604-660-1020

Victoria: 250-387-1602

Elsewhere in BC: 1-800-665-8779

Visit the RTB nearest you:

Burnaby: 400-5021 Kingsway

Victoria: 1st Floor, 1019 Wharf Street

Kelowna: 305 – 478 Bernard Avenue

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

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

All RTB offices are closed on statutory holidays.

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