

BC Residential Tenancy Branch Ombudsperson Complaints

The Ombudsperson is an independent officer of the BC legislature, and she is responsible for making sure that government bodies treat people fairly. The Ombudsperson can conduct an independent investigation and, in some cases, can recommend that the government body fix a problem or improve its practices and procedures so that future clients do not experience the same unfair treatment.

British Columbia's Residential Tenancy Branch is a government body that the Ombudsperson can investigate. Every year, the Branch makes thousands of decisions that affect the safety and security of landlords and tenants. In making these decisions, the Branch has a duty to treat its participants **fairly**. It must not act arbitrarily or oppressively; it cannot issue decisions based on mistakes of fact or law; and it must provide adequate and appropriate reasons for its decisions.

However, the Ombudsperson **cannot** investigate your case if you simply disagree with the outcome. If the Branch uses a fair process to reach a reasoned decision that was not in your favour, the Ombudsperson cannot recommend that the Branch change its decision. To illustrate, the following are examples of situations where a complaint will not be successful:

- Both you and the other party had a chance to provide evidence, but the arbitrator believed the other side's version of events.
- A Branch staff member gave you information that is not what you want to hear.
- Your arbitrator did not consider some of your evidence, but you failed to submit it.
- During the hearing, the arbitrator asked you to wait your turn to speak.
- The arbitrator gave reasons explaining her decision, but you disagree with them.

Because the Ombudsperson is restricted to investigating *public bodies*, you cannot file a complaint alleging unfairness on the part of your private landlord.

How do I know if I was not treated fairly?

Problems with fairness can arise before, during, and after your hearing before the Branch. At a basic level, fairness requires that all parties are given an opportunity to hear the case against them and to respond to that case. In practice, this means that parties are treated fairly when:

- Information given to parties about the process is clear, accurate and accessible;
- Parties to a dispute have a chance to give information and evidence to support their position and to know and respond to the information given by the other side;
- Decisions are made by unbiased and impartial decision-makers;
- The parties' reasonable expectations regarding the procedure that will be followed in making decisions are met;
- Decisions are made within a reasonable time;
- Clear and adequate reasons for the decisions are given; and
- The unsuccessful party is informed of any appeal or review procedures available.

The attached suggested complaint form gives more specific examples of unfairness that can arise.

In order to make a complaint to the Ombudsperson, you must:

(1) **Try to resolve the complaint yourself before complaining to the Ombudsperson.** Depending on your situation, you might:

- Complain directly to the Branch to try to resolve the matter. Complaints to the Branch may help identify areas where it needs to improve its services and procedures. For example, complaints about the clarity and accuracy of the factsheets published by the Branch have led to corrections or clarifications to information in those documents. In your complaint, *clearly* and *concisely* set out what you found to be unfair. You can complain to the Branch in writing either via email or mail:

Branch email: HSRTO@gov.bc.ca
Branch mail: PO Box 9844 Stn Prov Govt
Victoria BC V8W 9T2

- Apply to the Branch for "Review Consideration". See the Branch's factsheet on Review Considerations (RTB-100). Please note that there are limited grounds for review and very short timelines to apply – for some issues as little as two days.
- Seek legal advice about a possible judicial review. Judicial review is a complicated legal remedy that is beyond the scope of this document, and we suggest that you talk to a lawyer before pursuing one. For more information about judicial review, you can refer to CLAS's guide entitled "Representing Yourself on Judicial Review", which can be found at <http://www.clasbc.net/publications/details.php?ID=83>. You must apply for judicial review within 60 days of the decision being made.

(2) **File a written complaint within one year of the unfair treatment that you are complaining about.** The Ombudsperson may refuse to investigate if more than a year has passed. It is also important to note that the Ombudsperson cannot investigate until after the time limits for judicial review and, if applicable, review consideration, have expired. Generally, this will be at least 60 days after the unfair treatment occurred.

Written complaints can be sent to the Ombudsperson via fax or mail:

Send by fax to: (250) 387-0198 (Victoria)
Send by mail to: PO Box 9039 Stn Prov Govt
Victoria, BC V8W 9A5

Please copy CLAS on your complaint via fax or mail:

Copy CLAS by fax: (604) 685-7611 (Attention: Tenancy Issues)
Copy CLAS by mail: Attention: Tenancy Issues
300-1140 West Pender Street
Vancouver, BC V6E 4G1

(3) **The written complaint must provide the relevant information and a phone number or address to contact you.** Please remember that your complaint will be more effective and it will assist the Ombudsperson if you think carefully about how to present your situation in a logical, clear and legible format. Keep it short and to the point, and include dates when possible. See the attached complaint form for more information.

DETACH THE FIRST TWO PAGES

Complaint to the BC Ombudsperson Regarding the Residential Tenancy Branch

Name: _____

Address: _____

City: _____ Province: _____ Postal Code: _____

Phone: _____ Best contact time: _____

This complaint is regarding Residential Tenancy Branch File No.: _____

Names and positions of any Branch staff members involved:

My complaint relates to:

Information services and before my hearing

- Branch staff gave me incorrect or misleading information.
- The Branch lost or mishandled evidence relating to my case.
- There were significant delays in getting a hearing before the Branch.
- I didn't get proper notice of my Branch hearing.
- I didn't get to see all the evidence the Branch used to make its decision.
- Other (*specify on next page*)

During the hearing itself

- The arbitrator was rude, tried to pressure me, or appeared to have already made up his or her mind.
- I didn't get a chance to explain my case or my side of things.
- I didn't get the chance to challenge the other side's case (e.g. through questions or submissions).
- I was not allowed to have someone represent me or assist me at the hearing.
- The arbitrator did not follow the Branch Policies or Rules of Procedure.
- I wasn't able to attend the hearing for reasons beyond my control and my review was dismissed.
- Other (*specify on next page*)

After the hearing

- The decision is discriminatory, or is based on irrelevant grounds or a mistake of fact or law.
- The decision does not explain what findings were made or how the arbitrator reached them.
- I was not told of my right to seek review consideration (if applicable) or judicial review of the Branch's decision when I received it.
- Other (*specify on next page*)

Submit complaint to Ombudsperson's Office by fax to: (250) 387-0198
Submit complaint to Ombudsperson's Office by mail to: PO Box 9039 Stn Prov Govt, Victoria, B.C V8W 9A5
Please copy CLAS on your complaint "Attention: Tenancy Issues"

Explain what happened: *(be clear and concise; include dates when possible)*

Explain why this was unfair:

What have you done to try to resolve the problem? *(check more than one if necessary)*

- I filed for a Branch Review Consideration.
- I complained directly to the Branch.
- I filed a judicial review in BC Supreme Court.

Outcome of the attempt(s):

What outcome do you want, or what do you want the Ombudsperson to do?

Attach copies of all relevant documents: *(make sure your documents are organized and clearly labelled)*

- Branch decision(s)
- My correspondence to the Branch
- Correspondence I received from the Branch
- Other _____