



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **INTERIM DECISION**

Dispute Codes      MNR, MNDC, OLC, ERP, RP, RR, FF, O

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for compensation for the cost or emergency repairs and for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs and emergency repairs to the rental unit pursuant to section 33;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72; and
- for other unspecified remedies.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another. The landlord confirmed that he received a copy of the tenant's dispute resolution hearing package sent by the tenant by registered mail on October 26, 2012.

Although both parties submitted written evidence packages, both parties did so shortly before this hearing. The tenant testified that he sent his written evidence package, including digital information contained in a memory stick, on November 28, 2012 by courier, two days before this scheduled hearing. The landlord confirmed that he had received this evidence the day before the scheduled November 30, 2012 hearing. The landlord submitted four extensive packages of written evidence. He testified that he sent this written evidence to the tenant by registered mail on November 23, 2012 and November 26, 2012. Section 90 of the *Act* establishes that documents sent by registered mail are deemed served five days after their mailing. Those documents sent by the landlord on November 23, 2012, would not be deemed served until November 28, 2012, again two days prior to this scheduled hearing. Documents sent on November 26, 2012, would not have been deemed served until after this hearing was to

occur. The tenant's counsel said that some of these documents were received at his office one hour before this hearing.

At the hearing, I advised that neither party had complied with the Residential Tenancy Branch's (RTB's) Rules of Procedure regarding the service of evidence to one another in sufficient time to enable them to know the case against them and prepare accordingly. Both parties expressed an interest in obtaining an adjournment, which would enable them to consider one another's written evidence. Some of the repair issues noted in the tenant's application appear to have been resolved shortly before this hearing occurred; others appear to be in the process of being resolved. The parties also confirmed that their mutually requested adjournment would be useful in attempting to resolve the issues in dispute arising out of this tenancy.

As neither party would appear to be impacted by the granting of an adjournment and an adjournment of the hearing may facilitate a resolution of the issues in dispute, I agreed to this joint request for an adjournment.

In making this interim decision and as discussed at this hearing, I directed the landlord to send any written evidence to the office of the tenant's counsel as follows:

Kevin MacLean Law Corporation  
1800 – 3999 West Hastings Street  
Vancouver B.C. V6C 2W2

I also directed the landlord to provide the RTB and the tenant with a complete copy of the Residential Tenancy Agreement between the parties for this tenancy. The copy that was entered into written evidence by the landlord was lacking a number of pages, which may prove important should the parties prove unable to resolve this dispute.

### Conclusion

I adjourn this teleconference hearing to January 11, 2013 at 1:30 p.m. **Notices of Reconvened Hearing are enclosed with this decision for the applicant to serve, with all other required documents, upon the tenant within three (3) days of receiving this decision in accordance with section 88 of the Act.**

Failure to attend the hearing at the scheduled time, with all relevant documents and/or witnesses, will result in a decision being made on the basis of any information before me and the testimony of those in attendance at the hearing. Further adjournment requests are unlikely to be allowed.

Each party must serve the other and the RTB with any evidence that they intend to reply upon at the reconvened hearing well in advance of the hearing and in accordance with

the RTB's Rules of Procedures. Fact sheets are available at <http://www.rto.gov.bc.ca/content/publications/factSheets.aspx> that explain evidence and service requirements. If either party has any questions they may contact an Information Officer with the Residential Tenancy Branch at:

**Lower Mainland:** 604-660-1020

**Victoria:** 250-387-1602

**Elsewhere in BC:** 1-800-665-8779

This interim decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: December 06, 2012

---

Residential Tenancy Branch