



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MND MNR MNSD FF

### Preliminary Issues

Upon review of the Landlord's application for dispute resolution the Landlord wrote the following as the first sentence in the details of the dispute:

*November, December, January & February rent \$5000...*

Based on the aforementioned I find the Landlord had an oversight or made a clerical error in not selecting the box *for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement* when completing the application, as they clearly indicated their intention of seeking to recover the payment for occupancy or loss of rent after the tenancy had ended. Therefore, I amend the Landlord's application to include the request for *money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement*, pursuant to section 64(3)(c) of the Act.

### Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Landlord on December 04, 2014. The Landlord filed seeking to obtain a Monetary Order for: damage to the unit, site or property; for unpaid rent or Utilities; to keep all or part of the security and or pet deposit; for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement; and to recover the cost of the filing fee from the Tenants for this application.

At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each person was provided an opportunity to ask questions about the process however, each declined and acknowledged that they understood how the conference would proceed.

The hearing was conducted via teleconference and was attended by the Landlord and both Tenants. Each person gave affirmed testimony. The Tenants confirmed receipt of the Landlord's application and Notice of hearing documents which they state were personally served to them by the Landlord's maintenance person.

The Landlord testified that he served the Tenants with copies of their evidence in one envelope that was addressed to both of them. He stated that their evidence was sent via registered mail on May 29, 2015. Canada Post tracking information was submitted in the Landlord's oral testimony which indicated that attempted delivery was conducted on June 1, 2015 at which time a notice card was left and the final notice for pickup was left with the Tenants on June 15, 2015.

The Tenants submitted that they recently received notice from Canada Post that there was registered mail for A.S. to pick up; however, he had not picked up the package prior to the commencement of this hearing.

Section 71(2)(b) of the Act stipulates that The director may order that that a document has been sufficiently served for the purposes of this Act on a date the director specifies.

Based on the above information, I find that the Tenants were provided with 3 opportunities to receive the registered mail and they simply chose not to pick it up or chose to delay in picking it up. Common law has established that a person cannot refuse to accept registered mail to avoid service. Accordingly, I find that each Tenant was sufficiently served notice of the Landlord's application, notice of this hearing, and the Landlord's evidence, pursuant to section 71(2)(b) of the Act.

#### Issue(s) to be Decided

Have the parties agreed to settle these matters?

#### Background and Evidence

The Landlord submitted evidence that the Tenants entered into a written fixed term tenancy agreement that began on June 1, 2014 and was set to end on May 31, 2015. Rent of \$1,250.00 was due on or before the first of each month and on May 28, 2014 the Tenants paid \$625.00 as the security deposit.

During the course of this proceeding the parties agreed to settle these matters.

#### Analysis

Pursuant to section 63 of the Act, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order.

During the hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute on the following terms:

- 1) The Landlord agreed to withdraw their application for Dispute Resolution;

- 2) The Tenants agreed to pay the Landlord **\$5,000.00** as full and final compensation;
- 3) The \$5,000.00 will be paid to the Landlord in (5) postdated cheques drawn on the account of the Tenant P.A.S., each in the amount of \$1,000.00 and dated July 1, 2015, August 1, 2015, September 1, 2015, October 1, 2015, and November 1, 2015;
- 4) The Tenants will send the (5) postdated cheques to the Landlord via registered mail no later than June 29, 2015; and
- 5) in consideration for this mutual settlement each person agreed that no further applications or claims will be made by either party whatsoever, arising from this tenancy.

### Conclusion

The parties agreed to settle these matters on the above listed terms, pursuant to section 63 of the Act.

In support of the settlement agreement, The Landlord has been issued a Monetary Order for **\$5,000.00**. This Order is legally binding and must be served upon the Tenants in the event the Tenants do not comply with the settlement agreement. This Order may be filed with the B.C. Small Claims Court and enforced as an Order of that Court.

This 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: June 19, 2015

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Residential Tenancy Branch

