



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes

*Tenants' First Claim:* AS, FF, OLC, PSF, RP, RR

*Landlord's Claim:* FF, MND, MNSD, O, OPC

*Tenants' Second Claim:* AS, CNC, FF, LAT, LRE, OLC, OLT, PSF, RP, RR

### Introduction

This hearing was convened in relation to the Tenants' First Claim pursuant to the *Residential Tenancy Act* (the Act) for:

- 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 to the rental unit pursuant to section 32;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- an order allowing the tenants to assign or sublet because the landlord's permission has been unreasonably withheld pursuant to section 65; and
- authorization to recover their filing fee for this application from the landlord pursuant to section 72.

This hearing was also convened in relation to the Landlord's Claim pursuant to the Act for:

- an order of possession for cause pursuant to section 55;
- a monetary order for damage to the rental unit pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover her filing fee for this application from the tenants pursuant to section 72; and
- an "other" remedy.

This hearing was also convened in relation to the Tenants' Second Claim pursuant to the Act for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- authorization to change the locks to the rental unit pursuant to section 70;
- 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 to the rental unit pursuant to section 32;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- an order of possession of the rental unit pursuant to section 54;
- an order allowing the tenants to assign or sublet because the landlord's permission has been unreasonably withheld pursuant to section 65; and
- authorization to recover their filing fee for this application from the landlord pursuant to section 72.

The tenant JT appeared (the tenant). The tenant NE appeared on the first day of the hearing only. The landlord PB appeared with counsel.

I heard lengthy testimony and submissions from both the tenant and the landlord. Before the break on the second day of hearing, I canvassed the possibility of settlement. When we recommenced the parties engaged in a robust settlement conversation, which resulted in this settlement agreement.

### Inadvertent Error

In the process of assisting with the negotiations, I failed to realize that 2016 is a leap year. Accordingly, I proffered the end of tenancy date of 28 February 2016, which the parties agreed to; however, it was the mutual intent of the parties that the tenancy end at the end of February. I have corrected the date to 29 February 2016.

### Analysis

Pursuant to section 63 of the Act, an 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.

During this hearing, the parties reached an agreement to settle their dispute under the following final and binding terms:

1. The tenants agreed to withdraw their applications.
2. The landlord agreed to withdraw her application.
3. The landlord agreed to withdraw the 1 Month Notice.
4. The tenants will provide access to the landlord on the following dates and times and for these periods remove the dog from the rental unit:
  - a. 17 December 2015 from 1300 to 1500; and
  - b. 30 January 2016 from 1300 to 1500.
5. The landlord and tenants agreed that any other notices of entry will be dealt with in accordance with the Act.
6. The tenants agreed to provide possession of the rental unit to the landlord on or before one o'clock in the afternoon on 29 February 2016.
7. The landlord agreed to pay to the tenants as compensation \$2,250.00 on or before 1 January 2016.
8. The landlord agreed to pay to the tenants as compensation \$4,500.00 on or before 1 February 2016.

Each party stated that she understood the terms of this agreement. The parties agreed that these particulars comprise the full and final settlement of all aspects of their disputes for both parties.

The tenant asked me to provide information on the provisions dealing with the security deposit. Section 38 of the Act requires the landlord to either return all of a tenant's security deposit or file for dispute resolution for authorization to retain a security deposit within fifteen days of the end of a tenancy or a tenant's provision of a forwarding address in writing. If that does not occur, the landlord is required to pay a monetary

award pursuant to subsection 38(6) of the Act equivalent to the value of the security deposit. This provision does not apply if the landlord has obtained the tenant's written authorization to retain all or a portion of the security deposit to offset damages or losses arising out of the tenancy. Rules regarding extinguishment in sections 24 and 36 apply in respect of security deposits.

### Conclusion

The tenants' applications are withdrawn. The landlord's application is withdrawn. The landlord's 1 Month Notice is withdrawn.

The monetary orders are to be used if the landlord does not pay \$2,250.00 and \$4,500.00 to the tenants in accordance with their agreement. The tenants are provided with these orders in the above terms and the tenants should serve the landlord with these orders so that they may enforce them in the event that the landlord does not pay the amounts as set out in their agreement. Should the landlord fail to comply with these orders, these orders may be filed in the Small Claims Division of the Provincial Court and enforced as orders of that Court.

The attached order of possession is to be used by the landlord if the tenant(s) do(es) not vacate the rental premises in accordance with their agreement. The landlord is provided with this order in the above terms and the landlord should serve the tenants with this order so that it may enforce it in the event that the tenant(s) do(es) not vacate the premises by the time and date set out in their agreement. Should the tenant(s) fail to comply with this order, this order may be filed and enforced as an order of the Supreme Court of British Columbia.

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

Dated: November 02, 2015

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Residential Tenancy Branch

