



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MT, MNDC

### Introduction

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

- more time to make an application to cancel the landlord's Notice to End Tenancy, pursuant to section 66; and
- a monetary order for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67.

The landlord and her agent, CH (collectively "landlord") and the tenant and her advocate, DS (collectively "tenant") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The landlord's agent confirmed that he is a part owner of the rental building, while the landlord confirmed that she is the other co-owner of the rental building. The tenant confirmed that his advocate had authority to speak on his behalf at this hearing. This hearing lasted approximately 81 minutes in order to allow both parties to fully negotiate a settlement of this application.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package ("Application") and the tenant confirmed receipt of the landlord's written evidence package. In accordance with sections 88, 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's Application and the tenant was duly served with the landlord's written evidence package. The tenant testified that although he only received the landlord's written evidence on February 29, 2016, less than 7 days prior to this hearing, he had reviewed the landlord's evidence and was prepared to proceed with this hearing. The tenant stated that he was not requesting an adjournment of this hearing or making an objection to me considering the evidence at this hearing.

At the outset of this hearing, the tenant confirmed that he was not disputing any notice to end tenancy from the landlord and that his application for more time to dispute a notice was made in error. Accordingly, this portion of the tenant's application is dismissed.

### Issues to be Decided

Is the tenant entitled to a monetary order for money owed or compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement?

### Background and Evidence

Both parties agreed that this month-to-month tenancy began on November 1, 2004 and that monthly rent in the amount of \$1,119.00 is payable. Both parties agreed that a security deposit of \$402.50 was paid by the tenant and the landlord continues to retain this deposit. The tenant continues to reside in the rental unit. The tenant seeks one month's rent compensation of \$1,119.00 for a loss of heat at the rental unit.

Both parties agreed that they attended a "previous hearing" at the Residential Tenancy Branch on February 16, 2016 before a different Arbitrator. Both parties agreed that a decision and order of possession were issued following that hearing on the same date. The file numbers for the previous hearing appear on the front page of this decision. The tenant confirmed that he filed a "judicial review application" of the decision and order at the Supreme Court of British Columbia and that a stay of the order of possession had been granted pending a decision. The file number for the judicial review application appears on the front page of this decision.

### 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.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. Both parties agreed that this tenancy will continue on a month-to-month basis, as per the terms of the original tenancy agreement, until March 31, 2016;

2. Both parties agreed that this tenancy will continue on a fixed term basis beginning on April 1, 2016 and ending on March 31, 2017;
  - a. Both parties agreed that at the end of the fixed term on March 31, 2017, they will decide whether to continue this tenancy on a month-to-month basis or another fixed length of time;
  - b. Both parties agreed that if the tenant vacates the rental unit prior to the end of any fixed term agreement, that the landlord will not pursue any liquidated damages and/or rental loss against the tenant;
3. Both parties agreed that effective on April 1, 2016, the tenant's rent will be \$1,151.45 per month payable on the first day of each month;
4. Both parties agreed that the landlord will pay the tenant a total of \$50.00 by March 21, 2016;
5. The landlord agreed not to use the order of possession, dated February 16, 2016, and effective at 1:00 p.m. February 29, 2016, granted at the previous hearing, against the tenant;
6. The tenant agreed to withdraw and not pursue his judicial review application for the previous hearing decision and order from February 16, 2016, against the landlord at the Supreme Court of British Columbia;
7. Both parties agreed that this settlement agreement constitutes a final and binding resolution of the tenant's Application at this hearing;
8. The tenant agreed that he will not disclose the details of this settlement to any other tenants in the rental building.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties testified at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties testified that they understood and agreed that the above terms are legal, final and binding and enforceable, which settle all aspects of this dispute.

### Conclusion

In order to implement the above settlement reached between the parties, and as advised to both parties during the hearing, I issue a monetary Order in the tenant's favour in the amount of \$50.00. I deliver this Order to the tenant in support of the above agreement for use **only** in the event that the landlord does not abide by condition #4 of the above agreement. The tenant is provided with this Order in the above terms and the landlord must be served with a copy of this Order as soon as possible after the landlord does not abide by condition #4 of the above agreement. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

The tenant's application for more time to dispute a notice to end tenancy is dismissed.

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: March 07, 2016

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Residential Tenancy Branch

