



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PROMPTON REAL ESTATE SERVICES INC  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDC, MNSD, OLC, ERP, RP, PSF, FF

### Introduction

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

- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to obtain a return of the security and pet damage deposits, pursuant to section 38;
- an order requiring the landlords to comply with the *Act*, *Regulation* or tenancy agreement, pursuant to section 62;
- an order requiring the landlords to make emergency and regular repairs to the rental unit, pursuant to section 33;
- an order requiring the landlords to provide services or facilities, pursuant to section 65;
- authorization to recover the filing fee for this application, pursuant to section 72.

The two applicants, tenant JS ("tenant") and "applicant JF" (collectively "applicants") and the individual landlord, KL ("landlord") 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 confirmed that she was the property manager for the landlord company named in this application and that she had authority to speak on its behalf at this hearing (collectively "landlords"). This hearing lasted approximately 67 minutes in order to allow both parties to fully negotiate a settlement of this claim.

The landlord confirmed receipt of the applicants' application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the landlords were duly served with the applicants' application.

The applicants claimed that they did not receive the landlords' written evidence package. The landlord said that she mailed it to both applicants on February 8, 2017 and provided Canada Post receipts and tracking numbers for both mailings, with her written evidence. The tenant said that he got a notice to retrieve the mail but has not done so yet. I notified the applicants that they were both deemed served as per sections 88 and 90 of the *Act*, with the landlords' written evidence package on February 13, 2017, five days after their registered mailings. I advised the parties that I would consider the landlords' written evidence at the hearing because it was properly served and deemed received more than 7 days prior to this hearing, in accordance with Rule 3.15 of the Residential Tenancy Branch ("RTB") *Rules of Procedure*. However, as this matter settled between both parties, the evidence was not considered in any event.

### Preliminary Issues

Pursuant to section 64(3)(c) of the *Act*, I amend the applicants' application to add the name of the landlord company as a landlord-respondent to this application. The landlord confirmed that she was only dealing with this rental unit as an agent for the landlord company, which is the property management company. The landlords consented to this amendment.

During the hearing, both parties agreed that applicant JF was not a tenant with a valid tenancy agreement for this rental unit. Applicant JF confirmed that he had provided an application for tenancy to the building manager of the rental building but did not hear back from her. The landlord denied receiving any application from him. Applicant JF said that he moved into the rental unit in August 2016 after another tenant on the tenancy agreement, "former tenant CC" moved out of the rental unit. Both parties confirmed that only the tenant and former tenant CC are named tenants on the written tenancy agreement for this rental unit. The tenant confirmed that former tenant CC is his cousin. Accordingly, this settlement agreement includes various orders made between the landlords and tenant only, excluding applicant JF.

### 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, 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. The landlords agreed, at their own cost, to have certified, licensed technicians repair and remediate the mold in the rental unit by March 15, 2017;
  - a. this repair work includes cleaning the walls and areas underneath the old carpet and installing new carpet in the rental unit;
2. The landlords agreed to pay the tenant a total of \$1,893.75 by March 3, 2017, for the following:
  - a. \$1,400.00 is reimbursement for a portion of January 2017 rent;
  - b. \$393.75 is reimbursement for a mold report paid for by the tenant;
  - c. \$100.00 is for the filing fee for this application;
3. Applicant JF agreed to submit an application for tenancy to the landlords by February 23, 2017;
  - a. the landlords agreed that they would not unreasonably withhold permission for applicant JF to be approved as a tenant, unless he has a bad credit history;
4. Both parties agreed that if applicant JF is approved to be a tenant, then immediately thereafter, the tenant, applicant JF and the landlords will sign a new written tenancy agreement for a month-to-month tenancy at a reduced monthly rent of \$1,650.00 per month;
5. The landlords and the tenant agreed that if applicant JF is not approved to be a tenant, then this tenancy will continue between the landlords and the tenant on the terms of the original written tenancy agreement already in place;
6. The tenant (and applicant JF if he is approved as a tenant by the landlords), will not be required to pay any rent to the landlords for the period from February 1 to April 30, 2017;
7. The tenant (and applicant JF if he is approved as a tenant by the landlords) can return to reside in the rental unit by March 15, 2017 when the landlords' repairs are complete;
8. The tenant agreed to return to the landlords the cheques for the security deposit of \$925.00 and pet damage deposit of \$200.00 and not to cash these cheques, that were issued to the tenant and former tenant CC;
  - a. The landlords agreed, upon receipt of the above returned security and pet damage deposit cheques, to reapply both deposits to the tenant's tenancy (and applicant JF's tenancy if he is approved as a tenant by the landlords);
9. The tenant agreed to return former tenant CC's share of the security and pet damage deposits to former tenant CC directly;
10. The applicants agreed that this settlement agreement constitutes a final and binding resolution of their application at this hearing.

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

### Conclusion

I order both parties to comply with the above orders.

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 \$1,893.75. I deliver this Order to the tenant in support of the above agreement for use **only** in the event that the landlord(s) do not abide by condition #2 of the above agreement. The landlord(s) must be served with a copy of this Order as soon as possible after the landlord(s) do not abide by condition #2 of the above agreement. Should the landlord(s) 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.

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: February 22, 2017

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Residential Tenancy Branch

