



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Code(s): DRI, MNDC, RP, LRE, LAT, OLC, FF, O

### Introduction

This proceeding was scheduled to deal with a tenant's application to dispute a rent increase; request for repair orders; orders for compliance; and a Monetary Order for damage or loss under the Act, regulations or tenancy agreement, as amended. Both parties appeared or were represented at the hearing. Due to time constraints the hearing was held over two dates. An Interim Decision was issued after the first hearing date and should be read in conjunction with this decision.

### Procedural Matters

As reflected in the Interim Decision I ordered the landlord to re-serve to me an orderly copy of the Exhibits he had submitted to the Residential Tenancy Branch in multiple fax transmittals. I received an orderly copy of the Exhibits during the period of adjournment. The landlord also included a submission notifying me that the tenant had failed to pay rent for January 2017 and February 2017 and that he filed an Application for Dispute Resolution seeking compensation against her but that his monetary claims are set for hearing several months from now.

At the reconvened hearing, the landlord stated that he was uncertain as to the status of the tenancy since the tenant has not paid rent but that she had taken steps to prevent him from communicating with her and she did not give proper notice to end tenancy or return the keys to him. As such, he has not taken possession of the rental unit yet.

Since the tenant was seeking orders for compliance I found it necessary to explore the current status of the tenancy.

The tenant testified that she vacated the rental unit on January 1, 2017. When asked whether she gave notice to the landlord she indicated she did so after she moved out by way of a text message sent January 3, 2017. I asked the tenant to read her text message aloud. The text message I heard was convoluted and did not appear to be a clear indication she had ended the tenancy. The tenant also acknowledged that she did

not return the keys to the landlord but claims to have given them to other tenants living on the property.

Although it would appear the tenant failed to give proper notice and return the keys to the landlord as required under the Act, the tenant confirmed that she has vacated the rental unit. As such, I informed the parties that a tenancy comes to an end when a tenant vacates or abandons the rental unit and possession automatically returns to the landlord. I orally authorized the landlord to take possession of the rental unit and change the locks if he so chooses based upon the tenant's affirmation that she has vacated the rental unit.

Since the tenancy has come to an end, I found the tenant's requests for repair orders and most orders for compliance to be moot. The tenant's agent submitted that the tenant wished to pursue the monetary claim, order for the landlord to provide rent receipts, and for me to make a finding as to whether the tenant was given proper notice of a rent increase.

The tenant had not paid the rent increase sought by the landlord. Since the tenancy has ended and having heard the landlord has made a monetary claim against the tenant for unpaid rent I informed the parties that the tenant's position regarding improper notice of a rent increase would be a response to the landlord's monetary claims for unpaid rent and it is unnecessary to determine whether a Notice of Rent Increase was properly served at this time.

As for the tenant's monetary claim, I severed the monetary claim and request for rent receipts from the tenant's Application and dismissed these sought remedies with leave to reapply for reasons provided below.

Rule 2.3 of the Rules of Procedure provides:

**2.3 Related issues**

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

As seen in the Interim Decision, I had cautioned the tenant and her agent that issues contained in a single application must be sufficiently related. The tenant's agent submitted that the issues were related and I reserved my decision to sever the application. Upon consideration of the following factors that came to light, especially during the reconvened hearing, I find it just and appropriate to sever the tenant's application.

1. The tenant's application had been scheduled on a priority basis as she had indicated she was in need of repair issues, with a notation that mould was present, and that the landlord was entering the rental unit and she sought authorization to change the locks and prevent the landlord's access to the rental unit. After the hearing was scheduled, the tenant amended the application to withdraw her request to change the locks and prevent the landlord from accessing the rental unit and at the first hearing the tenant decided not to pursue the repair issue.
2. When asked to identify the most important and pressing matters to resolve during the first hearing date, the first matter identified was termination of cable services that occurred more than a year prior, which I find to be an issue with a monetary remedy.
3. At the first hearing I noted that the tenant's main issue appears to be focused on monetary issues as opposed to the more urgent issues she indicated on her original application and I questioned the tenant's intention to continue with the tenancy. The tenant indicated that she had not made plans to end the tenancy yet as learned at the reconvened hearing she vacated the rental unit nine days after the first hearing.

In light of the above, I was of the view that the tenant's motivation for making her application was largely that of monetary compensation. As pointed out by the landlord his monetary claim against the tenant is set for hearing several months from now. I am also of the view that to hear the monetary claims after having a hearing expedited to deal with repair issues and allegations of a landlord entering the rental unit only to not pursue those matters at the hearing and attempt to have a monetary claim heard is abuse of process and to discourage such conduct I find it appropriate to sever the tenant's monetary claim.

Given the tenant's actions with respect to the timing of her application and apparent motivation, the tenant's decision to move out after indicating she did not have plans to move out, I found the tenant disingenuous and her credibility lacking. I also note that I heard no indication that the tenant has updated her service address. An application is to be accompanied by a service address at which the applicant may be served. At the conclusion of this teleconference call the tenant declined to provide an updated service address. Accordingly, I also find it appropriate to dismiss the tenant's monetary claim and request for rent receipts with leave. If the tenant intends to pursue the landlord monetarily or for rent receipts she must be prepared to provide the landlord a service address. Therefore, the tenant is at liberty to reapply, provide the landlord with a current service address, and have a hearing with a different Arbitrator.

In light of all of the above, the tenant's request for monetary compensation and request for rent receipts are dismissed with leave to reapply.

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 8, 2017

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Residential Tenancy Branch