



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **REVIEW HEARING DECISION**

Dispute Codes      OPR, MNR

### Introduction

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

- an order of possession for unpaid rent, pursuant to section 55; and
- a monetary order for unpaid rent, pursuant to section 67.

"Tenant SH" did not attend this hearing, which lasted approximately 60 minutes. Tenant LJ ("tenant") and the two landlords 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 tenant confirmed that he had authority to speak on behalf of tenant SH, the other tenant named in this application, as an agent at this hearing (collectively "tenants").

The hearing began at 11:00 a.m. with me and the tenant present. The two landlords called in late at 11:03 a.m., stating that they had trouble calling into the hearing. I advised the two landlords what occurred before they called into the hearing. The hearing concluded at approximately 12:00 p.m.

Throughout the hearing, the tenant asked a number of questions and required multiple explanations regarding the same questions. I provided the required information to the tenant repeatedly and he confirmed that he understood and had no further questions when the conference concluded.

### Preliminary Issue – Previous Hearings and Service of Documents

This hearing was originally scheduled as a direct request proceeding, which is a non-participatory hearing ("direct request hearing"). A decision, dated March 17, 2017, ("direct request decision"), was issued by an Adjudicator for the direct request proceeding. The direct request decision was based on the landlord's paper application

only, with no submissions made by the tenants. The direct request decision granted the landlord a two-day order of possession and a \$1,000.00 monetary order for March 2017 rent, against the two tenants.

The tenants applied for a review of the direct request decision, alleging fraud. A new review hearing was granted by a different Arbitrator, pursuant to a review consideration decision, dated April 5, 2017 ("review decision"). As per the review decision, the tenants were required to serve the landlords with a copy of the review decision and the notice of review hearing.

The tenant confirmed that he served the review decision and notice of review hearing to the landlords. The landlords confirmed receipt of the review decision but said that they picked up the notice of review hearing from the Residential Tenancy Branch ("RTB") because the tenants did not serve it to them. In accordance with sections 89 and 90 of the *Act*, I find that the landlords were duly served with the review decision. As per section 71(2)(c) of the *Act*, I find that the landlords were sufficiently served with the notice of review hearing. The landlords confirmed that even though they did not receive the notice of review hearing properly from the tenant, they received the review decision and were aware of why this review hearing was occurring. They affirmed that they wanted to proceed with this hearing and achieve a final resolution of this matter. The tenant confirmed that he wanted to proceed with the hearing as well. Therefore, I proceeded with the hearing on the basis of both parties' consent.

The tenant confirmed receipt of the landlords' direct request application. In accordance with sections 89 and 90 of the *Act*, I find that both tenants were duly served with the landlords' direct request application.

The tenant confirmed receipt of the landlords' 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated March 3, 2017 ("10 Day Notice"). In accordance with sections 88 and 90 of the *Act*, I find that both tenants were duly served with the landlords' 10 Day Notice.

### Settlement

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 and orders. 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 tenants agreed to pay the landlords rent of \$1,000.00 for the period from June 1 to 30, 2017, by June 1, 2017;
2. The tenants agreed to pay the landlords rent of \$500.00 for the period from July 1 to 15, 2017, by July 1, 2017;
3. Both parties agreed that this tenancy will end by 1:00 p.m. on July 15, 2017, by which time the tenants and any other occupants will have vacated the rental unit, in the event that the tenants abide by conditions #1 AND #2 of the above settlement. In that event, the landlords' 10 Day Notice, dated March 3, 2017, is cancelled and of no force or effect;
4. Both parties agreed that the tenants are permitted to vacate the rental unit on their own accord, earlier than July 15, 2017, provided that they give the landlords at least 7 days written notice prior to vacating;
5. Both parties agreed that this tenancy will end pursuant to a seven (7) day Order of Possession, if the tenants do not abide by conditions #1 OR #2 of the above settlement;
6. Both parties agreed that rent is paid in full by the tenants, until May 31, 2017;
7. The landlords 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.

The tenant confirmed agreement and understanding that this settlement is binding upon tenant SH, who is also named in this application. The tenant confirmed that he understood the serious consequences of violating the terms of this settlement. I answered the questions of both parties regarding the above settlement and the enforceability of it and both parties confirmed that they fully understood and agreed to the above terms of their own free will.

### Conclusion

This review hearing decision and seven-day order of possession replace the previous direct request decision and two-day order of possession, both dated March 17, 2017.

To give effect to the settlement reached between the parties and as discussed with them during the hearing, I issue the attached seven (7) day Order of Possession to be used by the landlords **only** if the tenants do not abide by conditions #1 OR #2 OR #3 of the above settlement. The landlords are provided with this Order in the above terms and the tenants must be served with this Order as soon as possible after they do not comply with conditions #1 OR #2 OR #3 of the above agreement. Should the tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia. This order replaces the previous direct request two-day order of possession, dated March 17, 2017, which is cancelled and of no force or effect.

In the event that the tenants abide by conditions #1 AND #2 the above settlement, I find that the landlords' 10 Day Notice, dated March 3, 2017, is cancelled and of no force or effect. In that event, this tenancy continues only until 1:00 p.m. on July 15, 2017.

The previous hearing monetary order of \$1,000.00, dated March 17, 2017, issued to the landlords against the tenants, is cancelled and of no force or effect.

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: May 19, 2017

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Residential Tenancy Branch