



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      O, FF

### Introduction

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

- other remedies, identified as an order of possession based on the tenant's notice to end tenancy, pursuant to section 55; and
- authorization to recover the filing fee for this application, pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. This hearing lasted approximately 43 minutes in order to allow both parties to negotiate a full settlement of this application and due to the landlord's repeated arguments and interruptions.

The landlord requested an in-person hearing, claiming that she had hearing difficulties in one ear. The landlord provided a medical note to support her claim. A supervisor of the Residential Tenancy Branch issued a "Format of Hearing Decision," dated October 13, 2017, approving the landlord's request for an in-person hearing prior to the hearing date on November 8, 2017. The decision states that the tenant can attend in-person or by teleconference. Therefore, the landlord attended the hearing in person with me present and the tenant attended by teleconference. Both parties affirmed that they were able to hear myself and the other party throughout the hearing.

The tenant confirmed receipt of the landlord's application for dispute resolution hearing package and the landlord confirmed receipt of the tenant's written evidence package. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenant was duly served with the landlord's application and the landlord was duly served with the tenant's written evidence package.

At the outset of the hearing, the landlord confirmed that she did not require an order of possession because the tenant had already vacated the rental unit and she had taken back possession and the keys to the unit.

#### Preliminary Issue – Inappropriate Behaviour by the Landlord during the Hearing

Rule 6.10 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure* states the following:

##### *6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing*

*Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator’s direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.*

The hearing began at 11:00 a.m. and ended at approximately 11:43 a.m. Most of the hearing time was spent listening to the landlord make submissions. The hearing was also lengthened by the fact that the landlord continuously interrupted me and the tenant, repeatedly debated and argued the same issues with me, and yelled at me throughout the hearing. She claimed that I was being “biased” and favouring the tenant because I was allowing him to speak during the hearing.

Throughout the hearing, the landlord kept getting up from her chair, kept shuffling loudly through her paperwork, refused to answer my questions, told me to “make whatever decision you want” and kept yelling rude comments at me. She said that the tenant made racist comments to her and asked me if that was okay, claiming that she wanted to go to the Human Rights Tribunal (“HRT”). I encouraged her to pursue her claims at the HRT and informed her that I was unable to deal with these claims at the RTB.

At the end of the hearing, when I asked both parties whether they had any questions before I closed the hearing, the landlord claimed that she had none. When I exited the teleconference call with the tenant, the landlord then began asking me why I was favouring the tenant and how she could complain about me. I advised her that I could not discuss any evidence with her in the absence of the tenant and that she could speak to an information officer at the RTB location she was at, to deal with any complaints.

I repeatedly warned the landlord to stop her disruptive behaviour and yelling but she continued. I caution the landlord not to engage in the same rude, hostile, inappropriate and disruptive behaviour at any future hearings at the RTB, as this behaviour will not be tolerated and she may be excluded from future hearings. In that event, a decision will be made in the absence of the landlord.

### 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 and an order. During the hearing, the parties discussed the issues between them and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues with respect to this entire tenancy:

1. Both parties agreed that the landlord will retain \$550.00 from the tenant's security deposit of \$1,550.00;
2. Both parties agreed that the landlord will return the remaining \$1,000.00 from the tenant's security deposit to the tenant by way of a cheque to be mailed out by November 10, 2017;
3. The landlord agreed that this settlement agreement constitutes a final and binding resolution of her application and any issues arising out of this tenancy;
4. Both parties agreed that they will not initiate any future claims or applications against each other at the Residential Tenancy Branch, with respect to any issues arising out of this tenancy.

These particulars comprise a full and final settlement of all aspects of this dispute and arising out of this tenancy. Both parties affirmed that they understood and agreed to the above terms, free of any duress or coercion. Both parties affirmed that they understood and agreed to these terms as legal, final, binding and enforceable, settling all aspects of this dispute and arising out of this tenancy.

As I was not required to make a decision on the merits of the landlord's application and the parties settled the matter between themselves, I find that the landlord is not entitled to recover the \$100.00 filing fee from the tenant.

Conclusion

To give effect to the settlement reached between the parties, I order the landlord to retain \$550.00 from the tenant's security deposit of \$1,550.00.

In order to implement the above settlement reached between the parties, I issue a monetary Order in the tenant's favour in the amount of \$1,000.00 against the landlord. 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 #2 of the above monetary agreement. The landlord must be served with a copy of this Order as soon as possible after a failure to comply with condition #2 of the above monetary 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 landlord must bear the cost of the \$100.00 filing fee paid for this application.

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: November 08, 2017

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Residential Tenancy Branch