



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL, MNDC, LRE, FF

### Introduction

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

- cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) pursuant to section 49;
- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- authorization to recover her filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed that the tenant served the landlord with the notice of hearing package via General Post. I accept the undisputed affirmed evidence of both parties and find that both parties have been sufficiently served as per section 90 of the Act.

The tenant stated that both of her documentary evidence packages, the first on March 14, 2018 and the second on March 29, 2018 were sent via General Post to the landlord. The landlord disputed this claim stating that no such evidence was received. The tenant was unable to provide sufficient evidence to support her claim of service. On this basis, I find that the tenant has failed to serve the landlord with the submitted documentary evidence as she cannot provide sufficient evidence of service of her documentary evidence.

Both parties confirmed that the landlord served the tenant with her documentary evidence in person on April 14, 2018. On this basis, I find that the tenant was properly served and is deemed served on April 14, 2018 as per section 90 of the Act.

#### Preliminary issue(s)

At the outset it was clarified with both parties that the tenant had vacated the rental premises on April 14, 2018 and that the request to cancel the 2 Month Notice and the tenant's request to suspend or set conditions on the landlord's right to enter the rental premises was no longer required. As such, these two portions were cancelled by the tenant.

It was clarified with both parties that the hearing would continue on the tenant's request for monetary compensation of \$1,500.00 for the loss of quiet enjoyment and the loss of privacy and recovery of the \$100.00 filing fee.

#### Issue(s) to be Decided

Is the tenant entitled to a monetary order and recovery of the filing fee?

#### Background, Evidence, Analysis and Conclusion

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Neither party provided a copy of a signed tenancy agreement. The tenant stated that the monthly rent was \$1,500.00.

The tenant seeks a monetary claim of \$1,500.00 for the loss of quiet enjoyment and the loss of privacy over a two month period. The tenant clarified that the \$1,500.00 was an arbitrary amount based on what she felt she deserved for suffering over the construction noises on the exterior of the property.

Pursuant to section 63 of the Act, an 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.

During this hearing, the parties reached an agreement to settle their dispute under the following final and binding terms:

1. The tenant agreed to withdraw their applications.
2. The landlord agreed to pay the tenant, \$750.00 via etransfer.

The parties agreed that these particulars comprise the full and final settlement of all aspects of their disputes for both parties.

The tenant is granted a monetary order for \$750.00.

The monetary order is to be used if the tenant does not pay \$750.00 to the landlord in accordance with their agreement. The tenant is provided with this order in the above terms and the tenant should serve the landlord with this order so that it may enforce it in the event that the landlord does not pay the \$750.00 as set out in their 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 orders 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: April 25, 2018

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Residential Tenancy Branch