



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, MND

### Introduction

This matter came before me as a Landlords' Application for Dispute Resolution filed October 26, 2017 wherein the Landlord sought monetary compensation from the Tenants.

At the outset of the hearing, counsel for the Landlord advised that the matter originated from an application filed by the Landlord February 19, 2016. By Decision dated November 28, 2016 the Landlord's Application was dismissed for failure to attend the hearing. The Landlord applied for Review Consideration on the basis that he was unable to attend the hearing; the Application for Review Consideration was also dismissed.

By Petition dated January 25, 2017 the Landlord applied to the B.C. Supreme Court for Judicial Review of the November 28, 2016 Decision and the November 29, 2016 Review Consideration Decision.

The parties appeared before the Honourable Mr. Justice Bracken in the B.C. Supreme Court on June 23, 2017 at which time he ordered that the matter be returned to the Branch for a new hearing. I was provided with a copy of the Order dated June 23, 2017 and entered July 13, 2017, confirming that the Honourable Mr. Justice Bracken ordered a new hearing.

On October 26, 2017 the Landlord applied for Dispute Resolution seeking the same relief as his application dated February 19, 2016. While in the normal course a matter which is remitted back to the Branch would be rescheduled on the original file number, I find that the October 26, 2017 application which was heard before me on May 29, 2018 constitutes a new hearing as contemplated by the Honourable Mr. Justice Bracken.

Both parties appeared at the new hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

### Settlement and Conclusion

During the hearing the parties reached a comprehensive settlement. Pursuant to section 63 of the *Residential Tenancy Act* and *Rule 8.4* of the *Residential Tenancy Branch Rules of Procedure*, I record their agreement in this my Decision and resulting Order. As the parties resolved matters by agreement I make no findings of fact or law with respect to their relative claims.

The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the nature of this full and final settlement of this matter.

The terms of the settlement are as follows.

1. The Tenant shall pay to the Landlord the sum of **\$3,500.00**; payable as follows:
  - a. the Tenant shall make 24 equal payments of **\$145.83** per month, payable on the 1<sup>st</sup> of the month, commencing June 1, 2018, and continuing until the amount is paid in full;
  - b. the Tenant shall pay the amount by electronic transfer to the Landlord such transfers to be sent by email to the Landlord's email address as provided for on the unpublished cover page of this my Decision; and,
  - c. the Tenant shall be at liberty to pay the full outstanding balance at any time, should she be able to do so.
2. The Landlord shall keep a record of payments made by the Tenant and shall produce a copy of this record to the Tenant within 48 hours of the Tenant's request for same.
3. The Landlord is entitled to a Monetary Order in the amount of **\$3,500.00**. The Landlord must not serve or enforce this Order unless then Tenant is in default of

the payments provided for in paragraph 1. In the event the Tenant fails to make a payment, the Landlord may serve the Monetary Order on the Tenant, and file and enforce the Order in the B.C. Provincial Court (Small Claims Division).

4. Should the Tenant fail to make a payment as required, or issue a cheque which is returned N.S.F., and not rectify the situation by the 5<sup>th</sup> day of the month in which the payment is due, the Landlord shall be at liberty to reapply for the balance of the \$7,177.28 claimed on his Application filed on October 10, 2017; namely: \$3,677.28.
5. For the purposes of this settlement, and pursuant to section 66(1) of the *Residential Tenancy Act*, I extend the Landlord's right to apply for Dispute Resolution (as provided for in section 60 of the *Act*) until May 31, 2020.
6. All other matters arising from the tenancy are resolved by this full and final settlement as if tried on their merits.

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: June 1, 2018

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Residential Tenancy Branch