

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC LRE MNDCT MT OLC OPT OT RPP

### Introduction

This hearing dealt with applications from both the landlords and the tenants.

The landlords applied for an Order of Possession based on a 1 month notice to end tenancy for cause (“1 Month Notice”) pursuant to section 47 of the *Act*.

The tenants have applied for cancellation of the 1 month notice pursuant to section 47 of the *Act*, a Monetary Award pursuant to section 67 of the *Act*, an Order directing the landlord to comply with the *Act* pursuant to section 62, an Order directing the landlord to preform repairs on the rental unit pursuant to section 65 of the *Act*, for an Order of possession pursuant to section 54 of the *Act*, for More Time to dispute the notice to end tenancy pursuant to section 66 of the *Act*, and to suspend the landlords’ right to enter the rental unit pursuant to section 70 of the *Act*.

Both tenants and the landlords appeared at the hearing.

### Preliminary Issue – Tenants Application

*Residential Tenancy Policy Guideline #2.3* states, “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.”

The tenants have named D.J., a property manager of the strata corporation in the building in their application for a monetary award of \$25,000.00. I find this application for a monetary award is not related to their application to cancel the landlords’ 1 Month notice, nor is it related to the other relief sought. I find D.J. has no interest in the property as a landlord and therefore dismiss this application against D.J. without leave to reapply.

### Preliminary Issue – 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 or an order. During the

hearing the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of a portion of their dispute.

Both parties agreed to the following final and binding settlement of some issues currently under dispute at this time:

1. Both parties entered into a mutual agreement that this tenancy will end on October 31, 2018 at 1:00 P.M., by which date the tenants and any other occupants will have vacated the rental unit.
2. Both parties agreed that the landlords will continue to hold the security deposit in trust until the tenancy is complete. Following the conclusion of the tenancy, the security deposit is to be dealt with by the parties in accordance with the *Act*.
3. Both parties acknowledged that this settlement agreement constituted a final and binding resolution of a portion of the applications before me today.

Both parties testified at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties testified that they understood and agreed that the above terms are legal, final, binding and enforceable.

#### Issue(s) to be Decided

Are the tenants entitled to a monetary award?

#### Background and Evidence

Testimony provided to the hearing by the landlords explained this tenancy began on September 1, 2014. Rent was \$800.00 per month and a security deposit of \$375.00 paid at the outset of the tenancy continues to be held by the landlords.

The tenants argued they were entitled to a monetary award equivalent to one month's rent (\$800.000) because they felt they were "bullied" by the landlords who they alleged had failed to inform them a pending sale on the property. The tenants said they had no notice of this sale and wanted a free month's rent as was due to them under the *Act*.

#### Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay

compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the tenants to prove their entitlement to a monetary award.

I find no provisions under the *Act* which would entitle the tenants to an award equivalent to one month's rent or \$800.00 because of the landlords desire to sell the rental unit.

Section 51 of the *Act* states, "A tenant who receives a notice to end a tenancy under section 49 [*landlord's use of property*] is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement." I find no evidence that the tenants were served with a notice to end tenancy under section 49 of the *Act* and therefore find no reason for the tenants to recover any form of a monetary award. The tenants' application for a monetary award is dismissed without leave to reapply.

As the tenancy is to end on October 31, 2018 the remainder of the tenants' application is moot and will therefore not be considered pursuant to *Policy Guideline 2.3*.

### Conclusion

This tenancy shall end by way of Mutual Agreement to End Tenancy at 1:00 P.M. on October 31, 2018. Should the tenants fail to vacate the property by this time the landlord will be entitled to apply for an Order of Possession.

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: October 18, 2018

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