



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDC

### Introduction

The initial hearing was convened as a result of the Tenant's Application for Dispute Resolution, filed on July 19, 2018, wherein the Tenant requested monetary compensation from the Landlord pursuant to sections 51(2) and 67 of the *Act* and to recover the filing fee.

That hearing was conducted by teleconference at 1:30 p.m. on November 20, 2018, and a decision was rendered on November 28, 2018, whereby the Tenant's application for monetary compensation was dismissed.

Subsequently, the Tenant filed an Application for Judicial Review and was heard on May 21, 2019. An Order was filed with the Supreme Court Registry on May 24, 2019. The order reads:

1. The Decision made by the arbitrator is found to be patently unreasonable and therefore is set aside. The matter is referred back to the Director of the Residential Tenancy Branch *for reconsideration* on the basis of proper principles, including in particular the proper contextual definition of occupancy for purposes of Section 49(3) of the *Act*, when in fact the landlord intends to demolish pursuant to Section 49(6).

The reconsideration of this matter was heard by teleconference hearing on August 1, 2019.

The Landlord attended the hearing, as did the Tenant. Both parties were given the opportunity to speak to the evidence they already submitted in the previous hearing, and neither party took any issue with the service of evidence. Both parties were prepared and ready to proceed.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Settlement Agreement

During the hearing, a mutual agreement was discussed and both parties agreed to settle all issues with respect to the tenancy as part of this settlement agreement.

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.

Given the agreement reached between the parties during the proceedings, I find that the parties have settled their dispute and the following records this settlement as a decision:

- The Tenant withdraws his application in full.
- The Landlord will pay the Tenant \$1,750.00, forthwith.
- The Landlord and the Tenant both agree that this settlement agreement settles all issues with respect to the tenancy, in full (including compensation under section 51 of the *Act*, the security deposit, and any other monetary claim.)
- These terms comprise the full and final settlement of all aspects of this dispute for both parties.

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 all aspects of this tenancy. Both parties agreed not to file any further applications for dispute resolution with respect to this tenancy.

### Conclusion

In support of the agreement described above, the Tenant is granted a monetary order pursuant to Section 67 in the amount of **\$1,750.00**. This order must be served on the Landlord. If the Landlord fails to comply with this order the Tenant may file the order in the Provincial Court (Small Claims) and be enforced as an order 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: August 01, 2019

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Residential Tenancy Branch