



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BARBICAN PROPERTY MANAGEMENT  
INC. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OLC

### Introduction

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

- an order for the landlord to comply with the *Act*, regulations or tenancy agreement pursuant to section 62 of the *Act*.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The corporate landlord was represented by their agents T.T., S.C., W.F. and their counsel A.A.

As both parties were present, service of documents was confirmed. The landlord confirmed receipt of the tenants' notice of hearing and evidentiary materials. The tenants confirmed receipt of the landlord's evidentiary materials. Therefore, I find that the documents for this hearing were served in accordance with the *Act*.

### Preliminary Issue – Tenants' Amendment Application

The tenants confirmed that after their hearing was scheduled for their original application for an order for the landlord to comply with the *Act*, Regulations or tenancy agreement, they submitted a request to amend their original application by adding a monetary claim application. During the hearing, it was explained to the tenants that their request to amend their application was declined given that their original claim was given a prioritized hearing spot as it pertained to an order to compel the landlord to take action in a timely manner, whereas monetary compensation claim hearing spots are not prioritized in the same way. Therefore, to avoid a situation of "queue-jumping" the only matter addressed at this hearing was the priority matter of the tenants' original

application pertaining to an order to comply. It was explained to both parties that the tenants are at liberty to reapply for a monetary compensation application at a future date, within the time limits set out in the *Act*.

### Issue(s) to be Decided

Should the landlord be ordered to comply with the *Act*, Regulations or tenancy agreement?

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

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

1. The landlord confirmed that the current tenant and any other occupants of the rental unit located below the tenants' rental unit would be vacated by October 1, 2019. The landlord agreed to include a "no smoking" clause requirement in the tenancy agreement of the next tenant and occupants of the rental unit located below the tenants' rental unit, and that the "no smoking" clause would pertain to both cigarette and cannabis smoke.
2. The landlord agreed to have the tenants' carpets cleaned and draperies replaced at the landlord's expense by no later than October 30, 2019.
3. The tenants agreed to communicate with the landlord by email by November 30, 2019 to provide an update on the air quality in their rental unit, and at that time may request that the landlord undertake an indoor air quality investigation through a certified indoor air quality professional service at the landlord's expense up to a cost of \$1,000.00.
4. Both parties agreed that the terms of this settlement as outlined above constitute a voluntary final and binding resolution of the tenant's application for dispute resolution filed on July 18, 2019. As such, the tenant's application is dismissed in its entirety.

The parties are still bound by all of the rights, responsibilities, terms, conditions and any statutory compensation provisions of the tenancy agreement, the *Act*, and the associated regulations.

### Conclusion

To give effect to the settlement reached between the parties, should the landlord fail to fulfill Items 2 and 3 of the settlement agreement, the tenants are at liberty to apply for a monetary order against the landlord to compensate for the costs of undertaking this work themselves. Therefore, both parties are directed to keep sufficient documentary evidence of their fulfillment of their obligations in accordance with this agreement.

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: September 23, 2019

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Residential Tenancy Branch