



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding RA-AN ENTERPRISES LIMITED and  
[tenant name suppressed to protect privacy]

## **DECISION**

MNDC, OLC, FF

### Dispute Codes

### Introduction

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

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- 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 the tenant served the landlord with the notice of hearing package by posting it to the landlord's door on July 7, 2020. Both parties also confirmed the tenant served the landlord with the submitted documentary evidence by posting it to the landlord's door on July 24, 2020. Both parties confirmed the landlord served the tenant with the submitted documentary evidence by posting it to a common area door which leads to the tenant's door on July 23, 2020. Neither party raised any service issues. I accept the undisputed affirmed evidence of both parties and find that both parties are deemed sufficiently served as per section 90 of the Act.

### Preliminary Issue(s)

At the outset, the tenant's application was clarified. Extensive discussion took place with all parties and the tenant confirmed that the second named landlord L.S.V. was the landlord's agent, S.B. Both parties confirmed that the actual landlord was the named company and that S.B. was the owner and A.B. was an agent. On this basis and by

consent of both parties the tenant's application is amended to remove the second named landlord.

Issue(s) to be Decided

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

Is the tenant entitled to an order for the landlord to comply?

Background and Evidence

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.

The tenant seeks a monetary claim of \$6,100.00 which consists of:

\$6,000.00      Loss of Quiet Enjoyment,

                         \$1,000.00 10 Day Notice November 30, 2018

                         \$1,000.00 Two Month Notice March 22, 2019

                         \$1,000.00 One Month Notice July 19, 2019

                         \$1,000.00 One Month Notice September 3, 2019

                         \$1,000.00 One Month Notice September 17, 2019

                         \$1,000.00 One Month Notice December 27, 2019

\$100.00      Filing Fee

The tenant claims that the landlord is in violation of section 28 of the Act by giving the tenant multiple meritless Notice to End Tenancy within an unreasonable short period of time. The tenant claims that the landlord has intentionally made numerous false claims against the tenant knowingly and wil-fully provided false and misleading information to the tenant, the Residential Tenancy Branch, local police and fire officials. The tenant stated that each notice that was disputed was cancelled by the Residential Tenancy Branch. The tenant claims that the tenant has suffered stress headaches, ongoing mental stress, loss of appetite, anxiety, weight loss, loss of sleep, depression and loss of wages.

The landlord disputes the tenant's claims and noted that only 4 of the notices were issued by the landlord. The landlord clarified that 2 of the notices were issued by an agent of the landlord and that the first notice for unpaid rent was cancelled by the

landlord and no application for dispute was filed by the tenant. Both parties also confirmed that the notice dated September 3, 2019 was cancelled by the landlord's agent and replaced with the notice dated September 17, 2019. The landlord confirmed that for each notice that a hearing took place that notice was cancelled by the Residential Tenancy Branch.

The tenant also seeks an order for the landlord to comply with a Residential Tenancy Branch Order to provide the tenant with a front door key pursuant to a Residential Tenancy Branch File (noted on the cover of this decision). The landlord stated that she has not complied with the order as the tenant does not need access through this door and that it is more convenient to the tenant to use the rear door. Extensive discussions on this issue were made by both parties. The landlord confirmed that she understood the previous order and that she just does not wish to comply. The landlord was advised that complying with that order was not an option. On that basis, the landlord was advised to provide a key to the front door of the rental property within 24 hours of this hearing. The landlord was cautioned that if the landlord did not comply that the landlord would be subject to providing compensation to the tenant in the form of \$10.00 per day until the landlord complied by giving a key to the front door for access. The landlord stated that she understood and would comply. In the event that the landlord fails to comply with this direction, the tenant may apply for dispute resolution for a monetary claim.

### 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, I find that the tenant has failed to establish a claim for the \$6,100.00 amount filed. Although both parties have confirmed that for each notice in which a hearing took place that notice was cancelled by the Residential Tenancy Branch. Both parties confirmed that the 4 notice(s) were served within a 10 month period. The tenant provided affirmed testimony that the monetary amount of \$1,000.00 per notice was an arbitrary amount not based on any actual losses or expenses. The tenant stated that

this is what she “feels is fair” based on the landlord’s issuance of the meritless notices. On this basis, I find that the tenant has failed to provide sufficient evidence of her entitlement for compensation for loss of quiet enjoyment equal to \$1,000.00 per notice.

I note that both parties confirmed that the 1<sup>st</sup> notice dated November 30, 2018 was cancelled due to a disagreement on the tenant’s claim that the landlord must pick up the rent from the tenant. Both parties confirmed that since this notice rent had been delivered by the tenant to the landlord’s office. As such, I find that the tenant’s monetary claim for the 1<sup>st</sup> notice is dismissed.

I also find that the notice dated September 3, 2019 which was cancelled by the landlord and replaced with the notice dated September 17, 2019 is also dismissed. Both parties confirmed that the first notice was cancelled by the landlord and that this was communicated to the tenant as an error.

On the remaining 4 notices that the landlord issued and served to the tenant, both parties confirmed that on each occasion that these notice(s) were before the Residential Tenancy Branch, each notice was cancelled. The tenant provided undisputed affirmed testimony that on at least 2 occasions the landlord was cautioned that the issuance of multiple notice(s) in such a short period of time that the landlord was violating the tenant’s right to quiet enjoyment by the landlord issuing these notice(s). I also note that the repeated issuing of meritless notice to end tenancy and non-compliance of orders from the Residential Tenancy Branch may incur administrative penalties from the Director of the Compliance and Enforcement Unit of the Residential Tenancy Branch. As noted above the tenant has failed to establish a claim for the \$1,000.00 amount for each of the remaining 4 notice(s). However, it is clear that on each of the 4 occasions the landlord has issued a notice that it was cancelled as the landlord failed to support their claim for the reasons for cause. I find that this is a breach of the tenant’s quiet enjoyment of the rental unit. On this basis, I find that an arbitrary monetary award is required as the tenant has established that the landlord has issued multiple meritless notice(s). The tenant is granted a monetary order for \$400.00 which is equal to \$100.00 per notice.

The tenant having been partially successful is entitled to recovery of the \$100.00 filing fee.

### Conclusion

The tenant is granted a monetary order for \$500.00.

This order must be served upon the landlord. Should the landlord fail to comply with this order, the order may be filed in the Small Claims Division of the Provincial Court of British Columbia.

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 12, 2020

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Residential Tenancy Branch