



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OLC, FFT

### Introduction

The tenant sought an order under section 62(3) of the *Residential Tenancy Act* ("Act"), and they sought recovery of the filing fee under section 72 of the Act.

Both the tenant and the landlord's representative attended the hearing. No service issues were raised, and Rule 6.11 of the *Rules of Procedure* was explained.

### Preliminary Issue: Order Under Section 62(3) and Claim for Compensation

In reviewing the application, and during the hearing, the tenant explained that the occupants of the property who had caused a breach of the tenant's right to quiet enjoyment, and so forth, had vacated the upstairs rental unit at the end of April 2021.

It was explained to the tenant that an order under section 62(3) of the Act limits a remedy to an order requiring a landlord to give effect to the rights or obligations under the Act. However, this section of the Act does not permit me to award compensation; compensation may only be awarded under section 67 of the Act, and this requires a specific claim for compensation be made when applying for dispute resolution.

For the parties' information, section 62(3) of the Act states that

The [arbitrator] may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with the Act, the regulations or a tenancy agreement and an order that this Act applies.

[Sections 7](#) and [67](#) are the sections of the Act under which a party may bring a claim for compensation against another party. As explained to the parties, an arbitrator's jurisdiction to make decisions is restricted to the claim brought by a party in their initial application (or, through an amendment to an application).

Given that the occupants who caused noise disturbances have since left, there is no specific order under section 62(3) of the Act that needs to be made. The parties acknowledged their understanding of this. Finally, it was briefly explained to the tenant

the process for making a claim for compensation should they decide to exercise that right under the Act.

As there was no order to be granted in this application the claim for recovery of the application filing fee is dismissed.

### Conclusion

The tenant's application is dismissed without leave to reapply.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: August 23, 2021

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Residential Tenancy Branch