



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SKYLINE LIVING  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR-DR, MNR-DR, FFL

### Introduction

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

- an order of possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord's agent ("landlord") and the two tenants (male and female) attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. This hearing lasted approximately 34 minutes.

The hearing began at 11:00 a.m. and ended at 11:34 a.m. The tenants called in late at 11:05 a.m. I informed the tenants about what occurred in their absence.

The landlord confirmed that she was the property manager for the landlord company named in this application, and that she had permission to speak on its behalf. She stated that the landlord company owns the rental unit. The male tenant confirmed that he had permission to represent the female tenant at this hearing (collectively "tenants").

At the outset of this hearing, I informed both parties that Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* does not permit recording of this hearing by anyone. The landlord and the two tenants all separately affirmed, under oath, that they would not record this hearing.

I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Both parties confirmed that they were ready to proceed with this hearing, they wanted to settle this application, and they did not want me to make a decision. Neither party made any adjournment or accommodation requests.

#### Preliminary Issue – Direct Request Proceeding and Service

This hearing was originally scheduled as a direct request proceeding, which is a non-participatory hearing. A decision is made on the basis of the landlord's paper application only, not any participation by the tenants. An "interim decision," dated June 24, 2021, was issued by an Adjudicator for the direct request proceeding. The interim decision adjourned the direct request proceeding to this participatory hearing.

By way of the interim decision, the landlord was required to serve the interim decision and notice of reconvened hearing, dated June 28, 2021, to the tenants. The male tenant confirmed receipt of the above documents from the landlord. In accordance with sections 89 and 90 of the *Act*, I find that both tenants were duly served with the interim decision and notice of reconvened hearing.

The male tenant confirmed receipt of the landlord's original application for dispute resolution by direct request. In accordance with sections 89 and 90 of the *Act*, I find that both tenants were duly served with the landlord's original application.

The male tenant confirmed receipt of the landlord's Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, dated January 28, 2021 ("10 Day Notice"). In accordance with sections 88 and 90 of the *Act*, I find that both tenants were duly served with the landlord's 10 Day Notice.

#### Settlement Terms

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 and orders. 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 final and binding settlement of their dispute:

1. The tenants agreed to pay full rent of \$2,198.00 to the landlord by the first day of each month from November 1, 2021 and for the remainder of this tenancy, until the rent is legally changed in accordance with the *Act*;
2. The tenants agreed to pay the landlord \$15,356.60 total for unpaid rent from October 1, 2020 to October 31, 2021, according to the following terms;
  - a. \$2,198.00 will be paid on October 7, 2021;
  - b. \$1,096.55 will be paid on the 18<sup>th</sup> day of each month;
  - c. Payments will begin on October 18, 2021 and end on September 18, 2022;
3. Both parties agreed that this tenancy will continue as per the terms of the original tenancy agreement in the event that the tenants abide by conditions 1 AND 2 above. In that event, the landlord's 10 Day Notice, dated January 28, 2021, is cancelled and of no force or effect;
4. Both parties agreed that this tenancy will end pursuant to a five (5) day Order of Possession, which expires on October 7, 2022, if the tenants do not abide by conditions 1 OR 2 above;
5. The landlord agreed to provide an updated rent ledger to the tenants by October 7, 2021, by way of posting it to the tenants' rental unit door;
6. The landlord agreed to bear the cost of the \$100.00 filing fee paid for this application;
7. The landlord agreed that this settlement agreement constitutes a final and binding resolution of the landlord's application at this hearing.

These particulars comprise the full and final settlement of this dispute. Both parties affirmed at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties affirmed that they understood and agreed that the above terms are legal, final, binding and enforceable, which settles their dispute.

The terms and consequences of the above settlement were reviewed in detail, with both parties during this 34-minute hearing. Both parties had opportunities to ask questions and to negotiate and discuss the settlement terms in detail. Both parties affirmed, under oath, that they agreed and understood that they could not change the settlement terms after the hearing was over and that they knew it was a full and final settlement of this application.

### Conclusion

I order both parties to comply with all of the above settlement terms.

To give effect to the settlement reached between the parties and as discussed with them during the hearing, I issue the attached five (5) day Order of Possession to be used by the landlord **only** if the tenant(s) do not abide by conditions 1 OR 2 of the above settlement. As advised to both parties during the hearing, this **ORDER OF POSSESSION EXPIRES on October 7, 2022** and it cannot be served upon the tenant(s) after **October 7, 2022**. The tenant(s) must be served with a copy of this Order. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

In the event that the tenant(s) abide by conditions 1 AND 2 of the above settlement, I find that the landlord's 10 Day Notice, dated January 28, 2021, is cancelled and of no force or effect. In that event, this tenancy continues as per the terms of the original tenancy agreement until it is ended in accordance with the *Act*.

In order to implement the above settlement reached between the parties and as discussed with them during the hearing, I issue a monetary Order in the landlord's favour in the amount of \$15,356.60, the current amount of rent owing for this tenancy. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenant(s) fail to pay the landlord \$15,356.60 as per condition 2 of the above agreement. The tenant(s) must be served with a copy of this Order. Should the tenant(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

As informed to the landlord during this hearing, if future rent is unpaid by the tenants, the landlord is at liberty to apply to the RTB for a monetary order for the unpaid rent.

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 07, 2021

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Residential Tenancy Branch