



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDCT OLC LRE LAT RR FFT

### Introduction

This hearing was convened as a result of the tenant's two Applications for Dispute Resolution (applications) seeking remedy under the *Residential Tenancy Act* (Act). The tenant applied twice and combined the applications are for an order directing the landlord to comply with the Act, regulation or tenancy agreement, for a total monetary claim of \$41,069.00 for compensation or money owed under the Act, regulation or tenancy agreement, for a rent reduction, for an order to suspend or set conditions on the landlord's right to enter the rental unit, site or property, for authorization to change the rental unit locks, and to recover the cost of the filing fee.

The tenant, the landlord, counsel for the landlord, NR (counsel) and a witness for the landlord who did not testify attended the teleconference hearing. The tenant and the landlord were affirmed and an opportunity to ask questions was provided. Words utilizing the singular shall also include the plural and vice versa where the context requires.

As neither party raised any issues regarding the service of evidence, I am satisfied on service.

### Preliminary and Procedural Matters

The parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The parties were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the parties were informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance

Enforcement Unit for the purpose of an investigation under the Act. Neither party had any questions about my direction pursuant to RTB Rule 6.11.

In addition, the parties confirmed their respective email addresses at the outset of the hearing and stated that they understood that the decision would be emailed to them.

Firstly, I find that section 58(2) of the Act applies and states:

58(2) Except as provided in subsection (4) (a), **the director must not determine a dispute if any of the following applies:**

(a) **the amount claimed**, excluding any amount claimed under section 51 (1) or (2) [*tenant's compensation: section 49 notice*], 51.1 [*tenant's compensation: requirement to vacate*] or 51.3 [*tenant's compensation: no right of first refusal*], for debt or **damages is more than the monetary limit for claims under the *Small Claims Act***;

As the *Small Claims Act* limit is currently \$35,000.00 as of the date of the hearing, I find that I do not have jurisdiction to consider the monetary claim before me and as a result, I dismiss the monetary claim, with leave to reapply. The tenant is cautioned that the total for all combined claims must not exceed \$35,000.00 to be considered by the RTB. For claims over \$35,000.00 the Supreme Court has exclusive jurisdiction as this matter does not relate to sections 51(1), 51(2), 51.1 or 51.3 of the Act.

In addition, although the tenant stated that they amended their application, I disagree with the tenant as I find no formal amendment was made by the tenant on either application before me. Furthermore, I find it would be prejudicial to the landlord to modify a monetary claim at the hearing as all timelines for the landlord to respond to a modified claim have passed by the time of the hearing.

RTB Rule 2.3 authorizes me to dismiss unrelated disputes contained in an application before me. In this circumstance the tenant indicated several matters of dispute and filed two applications, both of which are before me and which I find the most urgent issue is to order the landlord to comply with the Act, regulation or tenancy agreement. I find that not all the claims on the application are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenant's request to have the landlord ordered to comply with the Act, regulation or tenancy agreement and the tenant's

application to recover the cost of the filing fee at this proceeding. The balance of the applications is **dismissed, with leave to re-apply**.

Finally, the tenant and landlord confirmed that as of late August 2021, after the tenant filed their two applications, the building was sold to a new landlord. Given the above and the fact that both parties have confirmed that the landlord in this matter is now a former landlord, I find the portion of the claim that remains before me to be moot as the new owner is the tenant's new landlord under the Act.

#### Issue to be Decided

- Is this application now moot?
- Is the tenant entitled to the recovery of the filing fee?

#### Analysis

Based on the above and on the balance of probabilities, I find the following.

I find this application is now moot as the landlord at the time the application was made has since sold the residential property to a new landlord.

I do not grant the filing fee as this matter is now moot.

#### Conclusion

This application is now moot and is dismissed without leave as a result.

The filing fee is not granted as noted above.

The tenant is at liberty to apply for a monetary claim if the total claim(s) do not exceed \$35,000.00 as noted above.

This decision does not extend any application timelines under the Act. This decision will be emailed to both parties as described above.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: December 24, 2021

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Residential Tenancy Branch