



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC, MNDL, MNDCL, FFL; CNC, OLC, RP, RR, PSF, MNDCT, FFT

### Introduction

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

- an order of possession for cause, pursuant to section 55;
- a monetary order for damage to the rental unit, pursuant to section 67;
- a monetary order of \$1,773.00 for compensation under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 67;
- authorization to recover \$100.00 the filing fee for their application, pursuant to section 72.

This hearing dealt with the tenants' application pursuant to the *Act* for:

- cancellation of the landlords' One Month Notice to End Tenancy for Cause, dated September 13, 2021 ("1 Month Notice"), pursuant to section 47;
- an order requiring the landlords to comply with the *Act*, *Regulation* or tenancy agreement, pursuant to section 62;
- an order requiring the landlords to complete repairs to the rental unit, pursuant to section 32;
- an order allowing the tenants to reduce rent of \$1,081.00 for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order requiring the landlords to provide services or facilities required by law, pursuant to section 65;
- a monetary order for \$1,381.00 for compensation under the *Act*, *Regulation* or tenancy agreement, pursuant to section 67;
- authorization to recover \$100.00 the filing fee for their application, pursuant to section 72.

The two landlords (male and female) 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 20 minutes.

This hearing began at 11:00 a.m. The two tenants disconnected from the hearing from 11:03 a.m. to 11:04 a.m. and from 11:11 a.m. to 11:12 a.m., stating that they accidentally “hit the wrong button.” I informed the two tenants that I did not discuss any evidence with the two landlords in their absence. This hearing ended at 11:20 a.m.

All participants confirmed their names and spelling. The female landlord and the male tenant provided their email addresses for me to send this decision to both parties after the hearing.

At the outset of this hearing, I informed both parties that recording of this hearing was not permitted by anyone, as per Rule 6.11 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure* (“Rules”). All participants separately affirmed, under oath, that they would not record this hearing.

I explained the hearing process to both parties. Both parties had an opportunity to ask questions, which I answered. Neither party made any adjournment or accommodation requests.

#### Preliminary Issue – Dismissal of Applications

At the outset of this hearing, the male tenant confirmed that both tenants vacated the rental unit on November 14, 2021. He confirmed that the tenants did not require any claims in their application, except for their monetary orders. I informed him that the tenants’ entire application including the \$100.00 filing fee, was dismissed without leave to reapply, except for their monetary claims. He confirmed his understanding of and agreement to same.

At the outset of this hearing, the female landlord confirmed that the landlords did not require any claims in their application, except for their one monetary order. She explained that the landlords were not seeking monetary damages from the tenants, nor were they seeking an order of possession. I informed her that the landlords’ entire application including the \$100.00 filing fee, was dismissed without leave to reapply, except for the one monetary claim. She confirmed her understanding of and agreement to same.

The female landlord confirmed that the landlords filed their application on November 10, 2021. She said that the landlords submitted late evidence on January 27, 2022. She agreed that the landlords amended their application for their one monetary order on January 12, 2022. The landlords' amendment reduced their monetary claim from \$2,200.00 to \$1,773.00.

I informed the landlords that they submitted late evidence from January 24 to 27, 2022, less than 14 days prior to this hearing, not including the hearing or service dates, contrary to Rule 3.14 of the RTB *Rules*. I also note that all of the landlords' evidence, which consists of hundreds of pages of documents, with the exception of five documents, were submitted between January 11 and 27, 2022.

The male tenant confirmed that the tenants filed their application on September 21, 2021. He agreed that the tenants amended their application to add a monetary claim on January 19, 2022.

I informed the tenants that they submitted late evidence from January 20 to 23, 2022, less than 14 days prior to this hearing, contrary to Rule 3.14 of the RTB *Rules*. I also note that all of the tenants' evidence, which consists of hundreds of pages of documents, with the exception of five documents, were submitted between January 17 and 23, 2022.

I informed both parties that the applicants were required to serve the respondents and the RTB with their evidence, within 3 days of the application package being made available to them by the RTB, as per Rule 3.1 of the RTB *Rules of Procedure*. I notified them that the applicants were required to serve any further evidence, no later than 14 days prior to this hearing, as per Rule 3.14 of the RTB *Rules*.

I informed both parties about the following applicable *Rules*, during this hearing (my emphasis added):

***2.5 Documents that must be submitted with an Application for Dispute Resolution***

*To the extent possible, the applicant should submit the following documents at the same time as the application is submitted:*

- **a detailed calculation of any monetary claim being made;**
- *a copy of the Notice to End Tenancy, if the applicant seeks an order of possession or to cancel a Notice to End Tenancy; and*

**• copies of all other documentary and digital evidence to be relied on in the proceeding, subject to Rule 3.17** [Consideration of new and relevant evidence].

When submitting applications using the Online Application for Dispute Resolution, the **applicant must upload the required documents with the application or submit them to the Residential Tenancy Branch directly or through a Service BC Office within three days of submitting the Online Application** for Dispute Resolution.

### **3.1 Documents that must be served with the Notice of Dispute Resolution Proceeding Package**

**The applicant must, within three days of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, serve each respondent** with copies of all of the following:

- a) the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute Resolution;
- b) the Respondent Instructions for Dispute Resolution;
- c) the dispute resolution process fact sheet (RTB-114) or direct request process fact sheet (RTB-130) provided by the Residential Tenancy Branch; and
- d) any other evidence submitted to the Residential Tenancy Branch** directly or through a Service BC Office with the Application for Dispute Resolution, **in accordance with Rule 2.5** [Documents that must be submitted with an Application for Dispute Resolution].

See Rule 10 for documents that must be served with the Notice of Dispute Resolution Proceeding Package for an Expedited Hearing and the timeframe for doing so.

### **3.11 Unreasonable delay**

Evidence must be served and submitted as soon as reasonably possible. If the **arbitrator determines that a party unreasonably delayed the service of evidence, the arbitrator may refuse to consider the evidence.**

**3.14 Evidence not submitted at the time of Application for Dispute Resolution**

*Except for evidence related to an expedited hearing (see Rule 10), documentary and digital evidence that is intended to be relied on at the hearing must be received by the respondent and the Residential Tenancy Branch directly or through a Service BC Office **not less than 14 days before the hearing. In the event that a piece of evidence is not available when the applicant submits and serves their evidence, the arbitrator will apply Rule 3.17.***

**3.17 Consideration of new and relevant evidence**

**Evidence not provided to the other party and the Residential Tenancy Branch directly or through a Service BC Office in accordance with the Act or Rules 2.5 [Documents that must be submitted with an Application for Dispute Resolution], 3.1, 3.2, 3.10.5, 3.14 3.15, and 10 **may or may not be considered depending on whether the party can show to the arbitrator that it is new and relevant evidence and that it was not available at the time that their application was made or when they served and submitted their evidence.****

**The arbitrator has the discretion to determine whether to accept documentary or digital evidence that does not meet the criteria established above provided that the acceptance of late evidence does not unreasonably prejudice one party or result in a breach of the principles of natural justice.**

*Both parties must have the opportunity to be heard on the question of accepting late evidence.*

*If the arbitrator decides to accept the evidence, the other party will be given an opportunity to review the evidence. The arbitrator must apply Rule 7.8 [Adjournment after the dispute resolution hearing begins] and Rule 7.9 [Criteria for granting an adjournment].*

Rule 2.3 of the RTB *Rules* allows me to sever issues that are not related to both parties' urgent applications. The tenants applied for 7 different claims and the landlords applied for 4 different claims in their applications.

I informed both parties that they received a priority hearing date for their applications related to the 1 Month Notice, the order of possession, and the urgent, ongoing tenancy claims. I notified them that their monetary claims were non-urgent lower priority issues, which could be severed at a hearing, as per Rule 2.3 of the RTB *Rules*.

The following RTB *Rules* are applicable and state (my emphasis added):

*2.3 Related issues*

*Claims made in the application must be related to each other. **Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.***

*6.2 What will be considered at a dispute resolution hearing*

*The hearing is limited to matters claimed on the application unless the arbitrator allows a party to amend the application.*

*The arbitrator may refuse to consider unrelated issues in accordance with Rule 2.3 [Related issues]. **For example, if a party has applied to cancel a Notice to End Tenancy or is seeking an order of possession, the arbitrator may decline to hear other claims that have been included in the application and the arbitrator may dismiss such matters with or without leave to reapply.***

Further, both parties amended their applications to add or modify their monetary claims in mid-January 2022, approximately two weeks prior to this hearing on February 3, 2022. Both parties also submitted hundreds of documents late, more than 3 days after they filed their applications, and less than 14 days prior to this hearing, even though the evidence dated back to the years 2020 and 2021.

For the above reasons, I informed both parties that their monetary applications were dismissed with leave to reapply. I notified them that they could file new applications and pay new filing fees, if they wanted to pursue these matters in the future. Both parties confirmed their understanding of and agreement to same.

Conclusion

The tenants' application for a rent reduction of \$1,081.00 and a monetary order of \$1,381.00 for compensation under the *Act, Regulation* or tenancy agreement, is dismissed with leave to reapply.

The landlords' application for a monetary order of \$1,773.00 for compensation under the *Act, Regulation* or tenancy agreement, is dismissed with leave to reapply.

The remainder of both parties' applications is dismissed without leave to reapply.

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: February 03, 2022

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Residential Tenancy Branch