



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDCT

### Introduction

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

- a monetary order for \$10,800.00 for compensation under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67.

The landlord, the landlord's agent, and the tenant 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 24 minutes.

All hearing participants confirmed their names and spelling. The landlord provided her email address, and the tenant provided his mailing address for me to send this decision to both parties after the hearing.

The landlord stated that she owns the rental unit and confirmed the rental unit address. She said that her agent had permission to speak on her behalf and assist her with English language translation at this 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"). The landlord, the landlord's agent, and the tenant all separately affirmed, under oath, that they would not record this hearing.

I explained the hearing and settlement processes to both parties. I informed them that I could not provide legal advice to them. They had an opportunity to ask questions, which I answered. They did not make any accommodation requests. They confirmed that they did not want to settle this application at this hearing.

At the outset of this hearing, the tenant stated that he could not proceed with this hearing without his witness present. He explained that his witness lived with him during this tenancy and had knowledge of all tenancy-related events. He maintained that this witness' testimony was relevant and important to his case, as he required someone to support him for his application.

The tenant said that his witness was unable to attend this hearing because he was in the hospital after his lung collapsed three days ago and was awaiting transfer to a different hospital to undergo lung surgery. He claimed that he did not have any advance notice of this event because it happened suddenly. He provided his witness's name and hospital location. He informed the landlord that she could call the hospital, or the tenant could accompany her to the hospital to show her the witness. He stated that he wanted to wait until his witness was medically able to testify at this hearing, but he did not know when that would be. The tenant stated that he wanted to reapply because it could take weeks or a month or longer for the witness's recovery, but he did not have a time frame.

The landlord's agent stated that he opposed the tenant's request to reapply because it was unfair. He said that the landlord was ready to proceed with this hearing and she did not want to come back again and deal with this at a later date. He claimed that the tenant was entering the landlord's property at night, and the landlord was concerned about it.

I informed the landlord and her agent that the RTB does not have jurisdiction to deal with criminal matters under the Criminal Code of Canada. I informed them that if they had complaints regarding trespass or illegal activity, they could contact the police and obtain a lawyer for legal advice, if they wanted to do so.

I informed both parties that the tenant's application was dismissed with leave to reapply. I notified the tenant that he could file a new application, if he wants to pursue this matter in the future. Both parties confirmed their understanding of same. The landlord's agent stated that he disagreed with my decision.

I informed both parties that since the tenant was entitled to call a witness at this hearing, to support his application, and his witness was unable to attend this hearing, due to a medical emergency, I would not proceed with this hearing. I accept the tenant's affirmed testimony that this incident happened without notice to the tenant, the witness was in the hospital and would be undergoing lung surgery, so he could not attend this hearing to testify.

I notified both parties that since the tenant did not know when his witness would be medically able to testify at this hearing and he did not provide a time frame, that the tenant had leave to reapply. I informed them that I found no prejudice to either party, since the tenant has an opportunity to reapply, submit his full evidence and witnesses, and attend a future hearing. I notified them that the landlord has an opportunity to respond to the tenant's application and appear at a future hearing. Further, this is a monetary application, not an urgent or priority issue, such as an order of possession.

### Conclusion

The tenant's application is dismissed with 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: March 11, 2022

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Residential Tenancy Branch