



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

MNDCT, OLC

### **Introduction:**

This hearing was convened in response to an Application for Dispute Resolution filed by the Tenant in which the Tenant applied for a monetary Order for money owed or compensation for damage or loss and for an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)* and/or the tenancy agreement.

The Tenant stated that the Dispute Resolution Package was personally served to the Agent for the Landlord, although he does not recall the date of service. The Agent for the Landlord stated that she believes the documents were served to her in March of 2022.

The Landlord submitted evidence to the Residential Tenancy Branch on June 09, 2022. The Agent for the Landlord #2 stated that this evidence was personally served to the Tenant on June 09, 2022. The Tenant acknowledged receipt of the evidence and it was accepted as evidence for these proceedings.

The participants were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each participant affirmed that they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The participants were advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. Each participant affirmed they would not record any portion of these proceedings.

Preliminary Matter

With the consent of all parties, the Application for Dispute Resolution was amended to reflect the correct name of the Landlord, as that name was provided by the Agent for the Landlord at the hearing.

Issue(s) to be Decided:

Is the Tenant entitled to compensation for being without an intercom?  
Is there a need to issue an Order requiring the Landlord to comply with the Act and/or the tenancy agreement?

Background and Evidence:

The Tenant stated that this tenancy began in 1996. The Agent for the Landlord stated that she is not sure when the tenancy began, but they have a written tenancy agreement for a tenancy that began on January 01, 2016.

The Tenant stated that the monthly rent is \$890.00. The Agent for the Landlord stated that it is \$892.19.

The Tenant stated that the intercom stopped working on October 03, 2021 and that he informed the Agent for the Landlord of the issue shortly thereafter. The Agent for the Landlord stated that the Tenant never informed her of a problem with the intercom.

The Agent for the Landlord stated that she first learned of a problem with the intercom on March 02, 2022 when someone from Canada Post informed her that they could not gain access to the building through the intercom system.

The Agent for the Landlord stated that she contacted the owner shortly after learning of a problem with the intercom, who advised her the intercom had been turned off due to unauthorized people accessing the building. She stated that she does not know when the intercom was deactivated.

The Agent for the Landlord stated that on March 02, 2022 or March 03, 2022 the intercom system was turned on again and that it is currently working. She stated that the intercom system is being replaced with a new system, with a scheduled installation date in July of 2022.

The Tenant stated that he does not know if the intercom system was turned on in March of 2022 because he did not attempt to use it in March of 2022. He stated that he attempted to use the system a “couple of days ago” at which time he determined it was not working.

The Tenant stated that there has been a sign on the intercom that says it is out of order; that the sign has been there for many months; and that it is still there. The Agent for the Landlord stated that she has never seen that sign on the intercom and that it was not there when she viewed the intercom approximately two weeks ago.

The Tenant stated that he has Parkinson’s Disease and that being without intercom service was difficult, because he had to go to the front door to provide access to guests.

Analysis:

On the basis of the undisputed evidence, I find that the Tenant was provided with intercom service as a term of his tenancy.

On the basis of the undisputed evidence, I find that the Landlord terminated the intercom service in an attempt to resolve a security issue in the building. As the Agent for the Landlord does not know when the intercom service was terminated, I accept the Tenant’s undisputed testimony that it was terminated on October 03, 2021.

Even if I accepted the Agent for the Landlord’s testimony that the Tenant did not report the issue with the intercom service to her until he served the Application for Dispute Resolution and she did not learn about the issue until March 02, 2022 when Canada Post reported an issue, I find the Landlord clearly knew the system was not working. The Landlord knew the system was not working because the Landlord intentionally terminated the service.

I accept the Agent for the Landlord’s testimony that the intercom service was restored on March 02, 2022 or March 03, 2022. I find her testimony more reliable than the Tenant’s testimony that it was not restored on those dates, as the Tenant acknowledged he did not attempt to use the system between October 03, 2021 and “a couple of days ago”.

I find that the Tenant has submitted insufficient evidence to establish that the intercom system was not working “a couple of days ago”. In reaching this conclusion I was heavily influenced by the absence of any independent evidence to corroborate his

testimony or to refute the Agent for the Landlord's testimony that it is currently working. As the Tenant bears the burden of proof in these circumstances, I find that he has failed to meet the burden of proving the intercom system has not worked since March 02, 2022 or March 03, 2022.

In adjudicating this matter, I have placed no weight on the Tenant's testimony that there has been an "out of order" sign on the intercom for many months and that the sign is still there. In reaching this conclusion I was heavily influenced by the absence of any independent evidence to corroborate his testimony or to refute the Agent for the Landlord's testimony that no such sign is currently posted.

Section 27(2)(b) of the *Residential Tenancy Act (Act)* permits a landlord to terminate or restrict a non-material service or facility if the landlord reduces the rent in an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility.

Determining the amount that a tenancy has been devalued as a result of intercom service being terminated or suspended is highly subjective. Considering the Tenant undisputed testimony that he has Parkinson's Disease and that he had go to the front door to provide access to guests, I find it reasonable to conclude that being without an intercom reduced the value of the tenancy by approximately 10%.

On the basis of the Tenant's testimony that rent was \$890.00 and the Agent for the Landlord's testimony that it was \$892.19, I find it reasonable to conclude that being without intercom service reduced the monthly value of the tenancy by \$89.11.

I find that the Tenant is entitled to compensation for being without an intercom for the period between October 03, 2021 and March 02, 2022 or March 03, 2022, which is approximately 5 months. 5 months of compensation at a rate of \$89.11 is \$445.55.

As the Tenant has failed to establish that the intercom service is not currently working, I find there is no need to issue any other Order in regard to the service.

#### Conclusion:

The Tenant has established a monetary claim of \$445.55 in compensation for being without intercom service and I am granting a monetary Order in that amount. In the event that the Landlord does not voluntarily comply with this Order, it may be filed with

the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

In the event the Tenant does not wish to enforce the monetary Order through the Province of British Columbia Small Claims Court, the Tenant has the right to withhold \$445.55 from any rent payment due, pursuant to section 72(2)(a) of the *Act*.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: June 21, 2022

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Residential Tenancy Branch