



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR-DR, MNR-DR, MNRL, MNDL, MNDCL, FFL; CNR, LRE

### 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, for damage to the rental unit, and for damage or loss under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for her application, pursuant to section 72.

This hearing also dealt with the tenant's application pursuant to the *Act* for:

- cancellation of the landlord's Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, dated May 2, 2022 ("10 Day Notice"), pursuant to section 46; and
- an order restricting the landlord's right to enter the rental unit, pursuant to section 70.

The landlord 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 32 minutes from 9:30 a.m. to 10:02 a.m.

The landlord and the tenant both confirmed their names and spelling. They both provided their email addresses for me to send a copy of this decision to both parties after the hearing.

The landlord confirmed that she was the owner of the rental unit until she sold it to a new owner. She provided the rental unit address.

The tenant stated that English was not her first language, but she did not require an English language translator at this hearing. She said that she was able to understand the hearing proceedings and she wanted to continue with this hearing.

Rule 6.11 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure* (“Rules”) does not permit recording of this hearing by any participant. At the outset of this hearing, the landlord and the tenant both separately affirmed, under oath, that they would not record this hearing.

At the outset of this hearing, I explained the hearing and settlement processes, and the potential outcomes and consequences, to both parties. I informed them that I could not provide legal advice to them. Both parties had an opportunity to ask questions. Neither party made any adjournment or accommodation requests. Both parties confirmed that they were ready to proceed with this hearing.

Both parties confirmed receipt of the other party’s application for dispute resolution hearing package. In accordance with section 89 of the *Act*, I find that both parties were duly served with the other party’s application.

The landlord stated that she did not receive any evidence from the tenant. The tenant stated that she did not serve her evidence to the landlord. As both parties voluntarily settled this application and I was not required to make a decision, I do not find it necessary to make findings regarding service of the tenant’s evidence to the landlord.

Pursuant to section 64(3)(c) of the *Act*, I amend both parties’ applications to add and correct the spelling of the tenant’s second surname. The tenant consented to the above amendments. The landlord did not object to same. I find no prejudice to either party in making these amendments.

### Severing the Landlord’s Monetary Application for Damage and Loss

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.***

Rules 2.3 and 6.2 of the RTB *Rules of Procedure* allow me to sever issues that are not related to both parties' applications. The landlord applied for six different claims in her application. The tenant applied for two different claims in her application. In total, both parties applied for eight different claims in their applications.

I informed both parties that they were provided with a priority hearing date, due to the urgent nature of their claims related to the 10 Day Notice. I notified them that these were the central and most important, urgent issues to be dealt with at this hearing. Both parties confirmed their understanding of the above information.

I informed the landlord that her monetary claims for damage and loss were dismissed with leave to reapply. I notified her that these monetary claims were non-urgent lower priority issues, and they could be severed at a hearing. This is in accordance with Rules 2.3 and 6.2 of the RTB Rules above. I informed the landlord that we would only deal with her monetary claim for unpaid rent at this hearing, since it was directly related to the 10 Day Notice. She confirmed her understanding of the above information.

Four of the landlord's six claims and both of the tenants' claims, which is six of the eight total claims in both applications, were dealt with at this hearing. After 32 minutes, there was insufficient time to deal with the landlord's monetary claims for damage and loss at this hearing. The landlord submitted voluminous documents and evidence for her monetary claims. I informed the landlord that she could file a new application, if she wants to pursue her monetary claims for damage and loss in the future. She confirmed her understanding of the above information.

### 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 this hearing, the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute, except for the landlord's monetary claims for damage and loss.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time, except for the landlord's monetary claims for damage and loss:

1. Both parties agreed that this tenancy ended prior to this hearing, and the landlord does not require an order of possession against the tenant;
2. The landlord agreed that her 10 Day Notice, dated May 2, 2022, was cancelled and of no force or effect;
3. The tenant agreed to pay the landlord \$950.00 by September 30, 2022, by way of e-transfer to the landlord's email address, as confirmed by both parties during this hearing, and as contained on the cover page of this decision;
  - a. The landlord agreed to accept the above amount of \$950.00 towards all outstanding rent for May 2022;
4. The landlord agreed to bear the cost of the \$100.00 filing fee paid for her application;
5. The tenant agreed to accept service of any RTB-related documents from the landlord, by way of email, to the tenant's email address, as confirmed by both parties during this hearing, and as contained on the cover page of this decision;
6. Both parties agreed that this settlement agreement constitutes a final and binding resolution of both parties' applications, except for the landlord's monetary claims for damage and loss.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties affirmed at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties affirmed at the hearing that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute, except for the landlord's monetary claims for damage and loss.

The terms and consequences of the above settlement were reviewed in detail, with both parties during this 32-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 fully understood the above settlement terms and were agreeable to them.

### Conclusion

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

The landlord's 10 Day Notice, dated May 2, 2022, is cancelled and of no force or effect.

In order to implement the above settlement reached between the parties and as discussed with both parties during the hearing, I issue a monetary Order in the landlord's favour in the amount of \$950.00, against the tenant. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenant fails to pay the landlord \$950.00 as per condition #3 of the above agreement. The tenant must be served with a copy of this Order. Should the tenant 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.

The landlord must bear the cost of the \$100.00 filing fee paid for her application.

The landlord's application for damage to the rental unit, and for damage or loss under the *Act, Residential Tenancy Regulation* or tenancy agreement, is severed and 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: September 02, 2022

---

Residential Tenancy Branch