



# 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 of \$50,000.00 for compensation under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67.

"Landlord JH" did not attend this hearing, which lasted approximately 15 minutes. Landlord HG ("landlord"), the landlords' lawyer, 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 began at 1:30 p.m. with me, the landlords' lawyer, and the tenant present. The landlord called in late at 1:33 p.m. I did not discuss any evidence in the absence of the landlord. This hearing ended at 1:45 p.m.

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

The landlord confirmed that he owns the rental unit. He said that he owns multiple properties in the same city, so he did not know the rental unit address. He explained that he did not have permission to represent landlord JH, a property manager named in this application. He stated that the landlords' lawyer had permission to speak on his behalf at this hearing.

Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* does not permit recordings of any RTB hearings by any participants. At the outset of this

hearing, all hearing participants separately affirmed, under oath, that they would not record this hearing.

I explained the hearing process to both parties. I informed them that I could not provide legal advice to them. Both parties had an opportunity to ask questions, which I answered. Neither party made any accommodation requests.

The landlord was upset, argumentative, and repeatedly interrupted me throughout this hearing. I repeatedly cautioned the landlord that I required him to answer my questions in order for me to proceed and conduct this hearing.

Pursuant to section 64(3)(c) of the *Act*, I amend the tenant's application to correct the spelling of the landlord's surname and the rental unit street address. Both parties consented to these amendments during this hearing. I find no prejudice to either party in making these amendments.

At the outset of this hearing, the landlords' lawyer requested an adjournment. He claimed that he was only recently retained by the landlords' insurer, and he needed additional time to prepare for this hearing. The landlord consented to same, stating that he was only served with the tenant's application one week prior to this hearing. The tenant consented to an adjournment of this hearing. I informed both parties that I would not adjourn this hearing for the reasons indicated below.

The tenant stated that she was pursuing her monetary application for \$50,000.00 at this hearing.

Section 58(2)(a) of the *Act* states the following (my emphasis added):

*Determining disputes*

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;**

During this hearing, I notified the tenant that the monetary limit of the RTB jurisdiction is \$35,000.00, so the tenant could not pursue a monetary claim in excess of this amount

at the RTB. I informed the tenant that she was at liberty to pursue her monetary claim for \$50,000.00, at the Supreme Court of British Columbia ("SCBC"), if she wants to do so. The tenant confirmed her understanding of same.

The tenant is not permitted to split her claims between the RTB and the SCBC, as per Rule 2.9 of the RTB *Rules*.

The tenant asked if she could reduce her monetary claim to \$35,000.00 and have it heard at the RTB. I notified the tenant that she could hire a lawyer to obtain legal advice. I notified the tenant that she was at liberty to file a future new RTB application for a monetary amount up to \$35,000.00, within the limitation dates indicated in the *Act*. I informed her that she could not amend her application to reduce her claim during this hearing, as she had ample time prior to this hearing, and failed to do so. The tenant filed this application on February 14, 2022, and this hearing occurred on October 11, 2022, almost 8 months later. Further, the landlord would not have notice of same, in order to properly respond. The tenant confirmed her understanding of same.

### Conclusion

I decline jurisdiction over the tenant's application. I make no determination on the merits of the tenant's application. Nothing in my decision prevents either party from advancing their claims before a Court of competent jurisdiction.

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: October 11, 2022

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Residential Tenancy Branch