



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, LRE, RPP, OLC, FFT

### Introduction

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

- cancellation of the 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), pursuant to section 46;
- an Order that the respondent's right to enter be suspended or restricted, pursuant to section 70;
- an Order directing the respondent to comply with the *Act*, regulation or tenancy agreement, pursuant to section 62;
- an Order for the respondent to return the applicant's personal property, pursuant to section 65; and
- authorization to recover the filing fee for this application from the respondent, pursuant to section 72.

The applicant, the applicant's advocate and the respondent attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The respondent's witnesses also attended the hearing.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they are not recording this dispute resolution hearing.

Per section 95(3) of the *Act*, the parties may be fined up to \$5,000.00 if they record this hearing: "A person who contravenes or fails to comply with a decision or an order made by the director commits an offence and is liable on conviction to a fine of not more than \$5 000."

Both parties confirmed their email addresses for service of this decision and order.

At the start of the hearing the applicant withdrew his Application for Dispute Resolution. Pursuant to the above withdrawal, I dismiss with leave to reapply, the applicant's application for:

- an Order that the respondent's right to enter be suspended or restricted, pursuant to section 70;
- an Order directing the respondent to comply with the *Act*, regulation or tenancy agreement, pursuant to section 62;
- an Order for the respondent to return the applicant's personal property, pursuant to section 65; and
- authorization to recover the filing fee for this application from the respondent, pursuant to section 72.

Both parties agreed that the applicant has moved out of the subject property. I find that no further action is required with respect to the application to cancel the Notice because the applicant no longer resides at the subject property. I therefore dismiss the applicant's application to cancel the Notice because the matter is moot because the applicant moved out. I make no findings on the merits of the matter.

The respondent testified that she is seeking an Order from the Residential Tenancy Branch that the applicant was not a tenant and that the *Act* does not apply. The advocate submitted that the respondent cannot argue her claim that a tenancy did not exist without first filing a claim for same against the applicant and permitting the applicant the opportunity to respond to such a claim. The applicant testified that a tenancy existed, and the *Act* applies.

I find that I cannot hear the respondent's claim because the respondent has not filed an Application for Dispute Resolution against the applicant regarding jurisdiction and has therefore not provided the applicant with an opportunity to respond to those claims. I find that I am not able to hear the respondent's claims in the applicant's application for dispute resolution as they are not properly before me.

In the hearing the respondent submitted that she did not see the option on the Application for Dispute Resolution to seek an order pertaining to jurisdiction. I note that the correct form is RTB-12L-O, which must be accompanied by an Application for Dispute Resolution. For more information on forms, the parties may visit the Residential Tenancy Branch website at:

<https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/forms>

Conclusion

The applicant's application for dispute resolution 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: October 31, 2022

---

Residential Tenancy Branch