



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, DRI, RR, LRE, FFT

### Introduction

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

- an order regarding a disputed rent increase pursuant to section 41;
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

At the outset of the hearing, I explained to the parties that as these hearings were teleconferences, the parties could not see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so.

All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation. All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I explained the hearing and settlement processes to both parties. Both parties had an

opportunity to ask questions. Both parties confirmed that they were ready to proceed with the hearing, they did not want to settle this application, and they wanted me to make a decision regarding this application. Neither party made any adjournment or accommodation requests. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary Issue- Severance

Residential Tenancy Branch (RTB) Rule of Procedure 2.3 states that claims made in an Application for Dispute Resolution must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

It is my determination that the priority claims regarding the One Month Notice and the continuation of this tenancy are not sufficiently related to the tenants' monetary claim of a disputed rent increase and rent reduction to warrant that they be heard together. The parties were given a priority hearing date in order to address the question of the validity of the Notice to End Tenancy.

The tenant's monetary claim is unrelated in that the basis for them rests largely on facts not germane to the question of whether there are facts which establish the grounds for ending this tenancy as set out in the Notice to End Tenancy. I exercise my discretion to dismiss the tenant's monetary claim with leave to reapply.

### Issue(s) to be Decided

Should the One Month Notice to End Tenancy for Cause be cancelled? If not, is the landlord entitled to an order of possession?

Should an order be made to set limits or suspend the landlords right to enter the suite?

Is the tenant entitled to the recovery of the filing fee?

### Background and Evidence

SN gave the following testimony. The tenancy began on February October 8, 2018 with the current monthly rent of \$950.00 due on the first day of the month. SN testified on July 28, 2022 she gave notice to the landlord that she would be moving out on August 31, 2022. SN testified that she moved out on that day but still seeks \$2300.00 in

monetary compensation for overpayment of rent and loss of Wi-Fi use, and the return of her deposit.

JV gave the following testimony. JV testified that he did obtain possession of the suite on August 31, 2022 and has a separate hearing scheduled as he seeks monetary compensation from the tenant.

### Analysis

Both parties confirmed that the landlord obtained possession of the unit on August 31, 2022 and that the tenancy has ended. Both parties referred to monetary claims against the other. I provided general information about the process and explained today's result to both parties. The landlord requested clarification about today's hearing, and it was explained that the tenant was free to pursue her monetary claim in a separate application and the other items were dismissed without leave to reapply, he advised that he understood.

### Conclusion

The tenants monetary claim is dismissed with leave to reapply. The remainder of the tenant's application is dismissed without 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: November 15, 2022

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Residential Tenancy Branch