



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OLC, FFT

### Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) that was filed by the Tenant on September 2, 2022, under the *Residential Tenancy Act* (the Act), seeking:

- An order for the Landlord to comply with the Act, regulation, and/or tenancy agreement; and
- Recovery of the filing fee.

The hearing was convened by telephone conference call at 9:30 A.M. (Pacific Time) on January 24, 2023, and was attended by the Tenant and an agent for the Landlord, J.H. (Agent). All testimony provided was affirmed. As the Agent acknowledged that the Landlord had received the Notice of Dispute Resolution Proceeding (NODRP) from the Tenant, and stated that there are no concerns regarding the service date or method, the hearing proceeded as scheduled.

The parties were advised that pursuant to rule 6.10 of the Residential Tenancy Branch Rules of Procedure (the Rules of Procedure), interruptions and inappropriate behavior would not be permitted and could result in limitations on participation, such as being muted, or exclusion from the proceedings. The parties were asked to refrain from speaking over me and one another and to hold their questions and responses until it was their opportunity to speak. The parties were also advised that pursuant to rule 6.11 of the Rules of Procedure, recordings of the proceedings are prohibited, except as allowable under rule 6.12, and confirmed that they were not recording the proceedings.

### Preliminary Matters

At the outset of the hearing, I advised the Tenant that it was not clear to me from the Application what order they were seeking or what section(s) of the Act, regulation, and/or tenancy agreement they were seeking enforcement of. The Tenant stated that

they believe they were not returned the correct amount of their security deposit as they were charged more for carpet cleaning than their co-tenant under the same tenancy agreement, and that they feel the Landlord forced them to give notice and end their tenancy. I asked the Tenant if they are seeking reinstatement of their tenancy and they stated that they are not.

Section 59(2)(b) of the Act states that an application for dispute resolution must include full particulars of the dispute that is to be the subject of the dispute resolution proceedings. Section 59(5)(c) of the Act further states that the director may refuse to accept an application for dispute resolution if the application does not comply with subsection (2).

As stated above, it was not clear to me from the Tenant's Application what they were seeking in terms of an order that the Landlord comply with the Act, regulation, and/or tenancy agreement. As a result, I find that the Application does not comply with section 59(2)(b) of the Act. Further to this, I find that the Tenant is seeking the return of a portion of their security deposit which they believe to have been improperly withheld by the Landlord or their agents, and to file a complaint against the Landlord as a result of what they believe to be serious and deliberate non-compliance with the Act, as they believe that they were "forced" to end their tenancy by the Landlord. I advised the Tenant that I cannot assess their monetary claim for the return of a portion of their security deposit as part of this Application, as they have not properly applied for its return. However, I advised the Tenant that they are entitled to file a subsequent application for dispute resolution properly seeking the return of all, some, or double the amount of their security deposit, and any monetary loss stemming from the alleged improper and "forced" ending of their tenancy, should they wish to do so.

I also advised the Tenant that their Application seeking an order for the Landlord to comply with the Act, regulation, and/or tenancy agreement and recovery of the filing fee was being dismissed without leave to reapply for the following reasons. First, it does not comply with section 59(2)(b) of the Act. Second, they appear to have inadvertently mistaken the dispute resolution process for the CEU complaints process. Third, the tenancy is over and the Tenant is not seeking reinstatement of the tenancy. Fourth, the Tenant is actually seeking the return of a portion of their security deposit and potentially compensation for monetary loss or other money owed as a result of the Landlord's alleged "forced" ending of the tenancy, which have not been properly applied for.

The Tenant had significant technical difficulties during the hearing, disconnecting 5 times without warning. While the Agent and I repeatedly put the hearing on hold while waiting for the Tenant to reconnect, once they were reconnected, they would disconnect only a few seconds or minutes later. At 9:52 A.M. the Agent chose to disconnect from the hearing, as the Tenant had disconnected several minutes prior and did not appear to be reconnecting. The Agent was advised that I would wait several more minutes for the Tenant to attend in an attempt to convey to them that I would put contact information for the CEU in the decision, and to ascertain how the Tenant wished to receive the decision from the Residential Tenancy Branch (Branch). Although I kept the hearing open until 10:10 A.M., more than 10 minutes after the Tenant's last disconnection, the Tenant did not reconnect and therefore the hearing was ended.

### Conclusion

The Tenant's Application seeking an order for the Landlord to comply with the Act, regulation, and/or tenancy agreement and recovery of the filing fee is dismissed without leave to reapply. However, the Tenant is entitled to file further claims against the Landlord, should they wish to do so, such as claims for monetary compensation and/or recovery of all or a portion of their security deposit. This is not an extension of any statutory deadline.

The Tenant also requested information on filing a complaint with the compliance and enforcement unit. Information on the compliance and enforcement unit (CEU), including what they do and how to file a complaint, can be found here:

<https://alpha.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/compliance-and-enforcement>

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

Dated: January 24, 2023

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Residential Tenancy Branch