



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

A matter regarding CENTURION PROPERTIES  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OLC, FFT

### Introduction

On October 6, 2022, the Tenants submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) asking that the Landlord comply with the Act, Regulation, or Tenancy Agreement. On February 6, 2023, the Tenants amended the application to include a monetary claim against the Landlord in the amount of \$43,751.85, and a request for the return of a security deposit.

The matter was set for a conference call hearing. The Tenants and Landlord attended the hearing. The Landlord was assisted by legal counsel. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

On October 6, 2022, the Tenants applied for dispute resolution seeking an order for the Landlord to comply with the Act, Regulation, or tenancy agreement. The Tenants moved out of the rental unit on December 2, 2022, prior to this hearing. There is no need to proceed with the Tenants’ request for an order because the tenancy has ended. The Tenants’ request for an order that the Landlord to comply with the Act, Regulation, or tenancy agreement is dismissed without leave to reapply.

The Tenants amended their application for dispute resolution to include a monetary claim for \$43,751.85 and a request for the return of a security deposit just two weeks prior to this hearing. The Tenants provided a video indicating they served the Landlord with their amended application on February 6, 2023, by sliding the amendment document under a door.

Section 58(2) of the *Residential Tenancy Act* and 51(2) of the *Manufactured Home Park Tenancy Act* provide that the director must not determine disputes involving claims for debts or damages if the monetary amount claimed exceeds the limit set out in the Small Claims Act. The limit is currently \$35,000. If a claim for debts or damages exceeds the small claims limit, a person must apply to the BC Supreme Court. The court then determines whether it will hear and determine the dispute or order that the director hear and determine the dispute.

On December 13, 2022 the Landlord applied for dispute resolution against the Tenants seeking compensation for unpaid rent and to keep the security deposit. A hearing is scheduled for September 12, 2023.

The Tenants amended application for compensation of \$43,751.85; and for the return of a security deposit is dismissed because the amount exceeds the limit under the Small Claims Act, and the Landlord had already applied against the security deposit.

The Tenants must either pursue their monetary claim at BC Supreme Court, or reapply under the *Residential Tenancy Act* with a claim amount that does not exceed \$35,000.00.

The Tenants' application is dismissed in its entirety with leave to reapply.

### Conclusion

The Tenants vacated the rental unit on December 2, 2022.

The Tenants amended application dated February 6, 2023, for compensation of \$43,751.85; and for the return of a security deposit is dismissed because the amount exceeds the limit under the Small Claims Act, and the Landlord had already applied against the security deposit.

The Tenants must either pursue their monetary claim against the Landlord at BC Supreme Court, or reapply under the *Residential Tenancy Act* with a claim amount that does not exceed \$35,000.00.

The Tenants' application is dismissed in its entirety 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: February 21, 2023

---

Residential Tenancy Branch