



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      MNDCT, RR, OLC, FFT

### Introduction

This hearing dealt with the tenant's application, filed on November 14, 2022, pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order of \$9,000.00 for compensation under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 67;
- an order allowing the tenant to reduce past rent of \$8,000.00 for repairs, services, or facilities agreed upon but not provided, pursuant to section 65;
- an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement, pursuant to section 62; and
- authorization to recover the \$100.00 filing fee paid for this application, pursuant to section 72.

The landlord 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 lasted approximately 13 minutes from 9:30 a.m. to 9:43 a.m.

Both parties confirmed their names and spelling. They both provided their email addresses for me to send this decision to both parties after this hearing.

The landlord confirmed that she owns the rental unit. She provided the rental unit address.

Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* ("*Rules*") does not permit recordings of any RTB hearings by any participants. At the outset of this hearing, both parties 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, and they could hire a lawyer for same. I notified them that the RTB information officers provide information only, not legal advice, to parties. They had an opportunity to ask questions, which I answered. Neither party made any adjournment or accommodation requests.

#### Preliminary Issue – Ongoing Tenancy Claim

At the outset of this hearing, the tenant confirmed that he moved out of the rental unit on November 30, 2022. He affirmed that he attended a previous RTB hearing on October 18, 2022. The file number for that hearing appears on the cover page of this decision. The tenant agreed that he applied for the same relief, an order to comply, and to cancel a One Month Notice to End Tenancy for Cause (“1 Month Notice”) and he settled that application and agreed to move out on November 30, 2022.

The tenant agreed that the day after the previous RTB hearing, October 19, 2022, he filed another application for a monetary order, and he was provided with a July 20, 2023 hearing date. The file number for that hearing appears on the cover page of this decision.

I informed the tenant that his application for an order to comply with the *Act, Regulation* or tenancy agreement, and to recover the \$100.00 filing fee, was dismissed without leave to reapply. I notified him that the order to comply claim relates to an ongoing tenancy only and he agreed to move out on November 30, 2022, at a previous RTB hearing on October 18, 2022, prior to filing this application on November 14, 2022. He affirmed his understanding of same.

#### Preliminary Issue – Severing the Tenant’s Monetary Claims

The following RTB *Rules* state the following (my emphasis added):

##### *2.3 Related issues*

**Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.**

##### *2.9 No divided claims*

**An applicant may not divide a claim.**

*6.2 What will be considered at a dispute resolution hearing*

*The hearing is limited to matters claimed on the application unless the arbitrator allows a party to amend the application.*

*The arbitrator may refuse to consider unrelated issues in accordance with Rule 2.3 [Related issues]. **For example, if a party has applied to cancel a Notice to End Tenancy or is seeking an order of possession, the arbitrator may decline to hear other claims that have been included in the application and the arbitrator may dismiss such matters with or without leave to reapply.***

I informed both parties that Rules 2.3 and 6.2 of the RTB *Rules* allow me to sever issues that are not related to the tenant's main, urgent application. The tenant applied for 4 claims in this application.

I informed both parties that the tenant was provided with a priority hearing date, due to the urgent nature of his claim related to an ongoing tenancy, for an order to comply. I notified them that this was the central and most important, urgent issue to be dealt with at this hearing.

The tenant filed this application on November 14, 2022, and did not amend his application to remove the ongoing tenancy claim for an order to comply, prior to this hearing, even though it was settled and dealt with at the previous RTB hearing on October 18, 2022.

I informed both parties that the tenant's monetary claims are not related to his main, urgent application for an order to comply. I notified them that the tenant already applied for a monetary claim on October 19, 2022, the day after the previous RTB hearing on October 18, 2022, and was provided with a later hearing date of July 20, 2023. The tenant then filed another application for a monetary order and added an urgent priority claim for an order to comply, even though he settled it at the previous hearing on October 18, 2022, and obtained an earlier hearing date of March 28, 2023. The tenant claimed that he was not a lawyer, and his monetary claims were for separate issues.

I notified both parties that the tenant's monetary claims were non-urgent lower priority issues, that could be severed at a hearing. I informed them that the tenant cannot split his monetary claims. This is in accordance with Rules 2.3, 2.9, and 6.2 of the RTB *Rules* above. Both parties affirmed their understanding of same.

I informed both parties that the tenant's monetary claims were severed and dismissed with leave to reapply. I notified them that the tenant can file a new application and pay a new filing fee, if he wants to pursue these monetary claims in the future. Both parties affirmed their understanding of same.

### Conclusion

The tenant's application for an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement, and to recover the \$100.00 filing fee paid for this application, is dismissed without leave to reapply.

The remainder of the tenant's application is severed and 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: March 28, 2023

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Residential Tenancy Branch