



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      OPR, MNRL, MNDL, MNDCL, FFL; OPR-DR, MNR-DR, FFL;  
CNR, MNDCT, DRI, PSF, LRE, OLC

### Introduction

This hearing dealt with the landlord's first application, filed on December 3, 2022, pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession for unpaid rent, pursuant to section 55;
- a monetary order of \$10,850.00 for unpaid rent, for damage to the rental unit, and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67; and
- authorization to recover the \$100.00 filing fee paid for her application, pursuant to section 72.

This hearing dealt with the landlord's second application, filed on January 11, 2023, pursuant to the *Act* for:

- an order of possession for unpaid rent, pursuant to section 55;
- a monetary order of \$5,600.00 for unpaid rent, pursuant to section 67; and
- authorization to recover the \$100.00 filing fee paid for her application, pursuant to section 72.

This hearing dealt with tenant RS's application, filed on December 8, 2022, pursuant to the *Act* for:

- cancellation of the landlord's Ten Day Notices to End Tenancy for Unpaid Rent or Utilities ("10 Day Notices"), pursuant to section 46;
- a monetary order of \$7,200.00 for compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement, pursuant to section 67;
- an order regarding a disputed additional rent increase of \$200.00, pursuant to section 43;
- an order requiring the landlord to provide services or facilities required by law, pursuant to section 65;

- an order restricting the landlord's right to enter the rental unit, pursuant to section 70; and
- an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement, pursuant to section 62.

"Tenant RS" did not attend this hearing. The landlord's agent and tenant LC ("tenant") attended this 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 32 minutes from 11:00 a.m. to 11:32 a.m.

Both parties confirmed their names and spelling. The landlord's agent provided the name and spelling for the landlord. Both parties provided their email addresses for me to send this decision to both parties after the hearing.

The landlord's agent stated that he is the son of the landlord ("landlord") named in this application. He said that he had permission to represent her at this hearing. He confirmed that the landlord owns the rental unit. He provided the rental unit address.

The tenant affirmed that she had permission to represent tenant RS, who she said is her brother, at this hearing (collectively "tenants").

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 and settlement processes, and the potential outcomes and consequences, to both parties. I informed them that I could not provide legal advice to them. They had an opportunity to ask questions, which I answered. Neither party made any adjournment or accommodation requests. Both parties confirmed that they were ready to proceed with this hearing, they wanted to settle this application, and they did not want me to make a decision.

#### Preliminary Issue – Service of Documents and Dismissing Applications

The tenant confirmed receipt of the landlord's two applications for dispute resolution hearing packages, by email. In accordance with section 89 of the *Act*, I find that both tenants were duly served with the landlord's two applications.

The landlord's agent stated that he did not receive a copy of tenant RS's application for dispute resolution hearing package. The tenant did not provide service evidence regarding the application. She said that tenant RS had this information, she did not have a copy in front of her during this hearing, and tenant RS was supposed to attend this hearing to talk about it but he failed to do so. The landlord confirmed that he wanted to proceed with this hearing and deal with tenant's RS's application.

During this hearing, I informed the tenant that tenant RS's application for ongoing tenancy claims, including an order requiring the landlord to provide services or facilities required by law, an order restricting the landlord's right to enter the rental unit, an order requiring the landlord to comply with the *Act, Regulation* or tenancy agreement, are dismissed without leave to reapply because this tenancy is ending, and the above claims relate to an ongoing tenancy only. She affirmed her understanding of same.

During this hearing, I informed the tenant that the tenant RS's application for monetary claims, including a monetary order of \$7,200.00 for compensation for damage or loss under the *Act, Regulation* or tenancy agreement, and an order regarding a disputed additional rent increase of \$200.00, are dismissed without leave to reapply. She affirmed her understanding of same. The tenant said that she did not know what the above claims were about, and she could not present them at this hearing. She said that tenant RS was supposed to attend this hearing to talk about it but he failed to do so. Tenant RS filed his application on December 8, 2022, and this hearing occurred on April 13, 2023, so he had over 4 months to prepare, attend this hearing, submit evidence, and present his application and failed to do so.

During this hearing, I informed the landlord's agent that the landlord's claims for registered mail costs and gas costs were dismissed without leave to reapply. I notified him that the only hearing-related costs that are recoverable under section 72 of the *Act* are for filing fees. He affirmed his understanding of same.

During this hearing, I informed the landlord's agent that the landlord's monetary claims for the lock change and flooring replacement were dismissed with leave to reapply. He confirmed that these costs have not yet been incurred and the tenants have not yet vacated the rental unit, so he did not inspect the rental unit. I informed him that these are future costs that have not been incurred yet, since this tenancy is still ongoing, and he had not inspected the rental unit. He affirmed his understanding of same.

### Settlement Terms

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision and orders. During the hearing, the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute, except for the landlord's two filing fees.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time, except for the landlord's two filing fees:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on April 16, 2023, by which time the tenants and any other occupants will have vacated the rental unit;
2. The tenants agreed to pay the landlord \$11,900.00 total, which is unpaid rent from November 1, 2022 to April 30, 2023;
3. Both parties agreed that this settlement agreement constitutes a final and binding resolution of both parties' applications, except for the landlord's two filing fees.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties, except for the landlord's two filing fees.

Both parties affirmed at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties affirmed that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute, except for the landlord's two filing fees.

The terms and consequences of the above settlement were reviewed in detail, with both parties during this 32-minute hearing. Both parties were provided with ample time during this hearing to think about, discuss, negotiate, and decide about the above settlement terms.

The tenant affirmed that she had permission to make this agreement on behalf of tenant RS.

### Filing Fee

Both parties did not settle the landlord's applications to recover the two \$100.00 filing fees. The landlord asked that I make a decision about it. He said that he filed two

applications and paid two filing fees because he wanted an earlier hearing date, and he had different notices to end tenancy.

Filing fees are discretionary awards that are usually issued by an Arbitrator after a full hearing is conducted on the merits of the applicant's applications, a decision is made by the Arbitrator, and the applicant is successful.

Both parties settled the landlord's applications and I dealt with the remainder at this hearing. I was not required to conduct a full hearing or make a decision on the merits of the landlord's applications.

For the above reasons, I dismiss the landlord's two applications to recover both \$100.00 filing fees, totalling \$200.00, without leave to reapply.

### Conclusion

I order both parties to comply with all of the above settlement terms.

To give effect to the settlement reached between the parties and as discussed with both parties during this hearing, I issue the attached Order of Possession to be used by the landlord **only** if the tenant(s) and any other occupants fail to vacate the rental premises by 1:00 p.m. on April 16, 2023, as per condition #1 of the above agreement. The tenant(s) must be served with a copy of this Order. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

All of the landlord's notices to end tenancy, issued to the tenants to date, are cancelled and of no force or effect.

In order to implement the above settlement and as discussed with both parties during this hearing, I issue a monetary Order in the landlord's favour in the amount of \$11,900.00. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenant(s) fail to pay the landlord \$11,900.00, as per condition #2 of the above agreement. The tenant(s) must be served with a copy of this Order. Should the tenant(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

The landlord's monetary claims for lock change and flooring replacement are dismissed with leave to reapply. The remainder of the landlord's application is dismissed without leave to reapply.

Tenant RS's entire application, except for cancellation of the landlord's 10 Day Notice, 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: April 13, 2023

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Residential Tenancy Branch