



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding HOMELIFE BENCHMARK REALTY (LANGLEY)  
CORP. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, FF

### Introduction

This hearing convened to deal with the landlord's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The landlord applied for compensation for a monetary loss or other money owed and to recover the cost of the filing fee.

The agent representing the landlord, who is the agent for the owner, and respondent SH attended, the hearing process was explained, and they were given an opportunity to ask questions about the hearing process. All parties were affirmed.

Thereafter the parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral, written, and other evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, not all details of the parties' respective submissions and or arguments are reproduced in this Decision. Further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

### Preliminary and Procedural Matters-

SH testified that she should not be involved with this dispute as she was not aware her husband had signed the tenancy agreement and that her name was forged by the other

listed tenant, DS. SH testified that she and DS were in the process of separating and she never intended to move to another town with their children. SH said she was completely unaware of anything DS signed in relation to the documents in this dispute and she never touched the documents. According to SH, DS told her to attend the hearing and tell them the truth.

The agent testified they had never met the tenants and were out of the country when the tenancy agreement was signed. The agent provided no dispute of the testimony of SH.

Based on the testimony of SH, I find there is sufficient evidence that she is not a party to this dispute and was illegally made a part by her husband, DS, who forged the document. I therefore exclude SH from any further consideration in this matter and any monetary order that may be issued to the landlord will not list SH's name.

Further, as DS was not present at the hearing, service of the landlord's application was considered. According to the agent, DS was served by registered mail on August 24, 2022. The Canada Post registered mail receipt was filed in evidence. I find DS was served the landlord's application as required by the Act.

Further, the landlord listed their name only using a part of their company name. I find it appropriate to amend the landlord's application to reflect their full corporate name listed on the written tenancy agreement.

#### Issue(s) to be Decided

Is the landlord entitled to the compensation sought and recovery of the cost of the filing fee?

#### Background and Evidence

Filed in evidence was a written tenancy agreement, indicating a tenancy start date of June 15, 2022, for a fixed-term through May 31, 2023, monthly rent of \$5500, and a security deposit of \$2750. There was an addendum to the tenancy agreement. The tenancy agreement was signed by the landlord and the tenant DS.

The landlord's monetary claim is \$11,000, two months of lost rent revenue.

In their application, the landlord wrote the following:

*(DS) and (SH) signed a 1 year lease. The day before they were supposed to move in, DS called and said they could not afford to pay for the rent as his company had taken a step backwards due to Covid. He was asked to pay 2 months rent and then he would not be held responsible for the remainder of the period if a tenant was not found. He refused. The house has now been rented for \$5800.00/month.*

[Reproduced as written except for redacting personal information to protect privacy]

The agent testified to the following:

The tenant notified them a few days before the tenancy was to start, June 12, 2022, that they were not moving in. Originally, the owner said they would not hold the tenant to the full amount if they agreed to pay a month's rent. The tenant did not do so, as shown by the emails between the parties filed in evidence.

The agent said they began advertising the rental unit immediately and were successfully able to re-rent the unit, effective August 15, 2022. The landlord's monetary claim is now \$11,000, for 2 months of lost rental income, June 15 through August 14, 2022.

### Analysis

Section 45(2) of the Act applies and states a tenant must give written notice to the landlord ending a fixed term tenancy at least one clear calendar month before the next rent payment is due and that is not earlier than the end of the fixed term.

Here, the tenant gave their notice on June 12, 2022, that they were not moving into the rental unit on June 15, 2022. I find the tenant breached the Act and their written tenancy agreement and as a result, I find the tenant is liable to the landlord for monthly rent under the terms of the tenancy agreement, subject to the landlord's obligation to minimize their loss.

I find the landlord submitted sufficient evidence to show that the tenant owed the monthly rent under the terms of their written tenancy agreement.

I find the landlord submitted sufficient evidence that they mitigated their loss by obtaining new tenants for August 15, 2022. I find this is sufficient to show that the tenant's breach of the tenancy agreement and the Act caused the landlord to incur a loss of rent revenue for two months, June 15 through August 14, 2022, or \$5500 each month.

I therefore find that the landlord has established a monetary claim of **\$11,000**, for the loss of rent revenue.

Due to their successful application, I grant the landlord recovery of their filing fee of **\$100**, bringing the landlord's total monetary award to **\$11,100**. I issue the landlord a monetary order (Order) for \$11,100.

The landlord must be served with this Order if enforcement is necessary. Should the tenant 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.

### Conclusion

The landlord's application for monetary compensation is fully successful. The landlord has been granted a monetary award of **\$11,100**.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: May 16, 2023

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Residential Tenancy Branch