



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      CNL, OLC, FFT

### Introduction

The tenants seek the following relief under the *Residential Tenancy Act* (the “Act”):

- an order pursuant to s. 49 cancelling a Two-Month Notice to End Tenancy signed on January 1, 2023 (the “Two-Month Notice”);
- an order pursuant to s. 62 that the landlord comply with the Act, Regulations, and/or the tenancy agreement; and
- return of the filing fee pursuant to s. 72.

M.D. and R.G. appeared as the named tenants. M.S. and S.S. appeared as the Landlords.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

### Parties’ Settlement

Review of the application materials filed by the Landlords show that the parties signed a mutual agreement to end tenancy on January 12, 2023 whereby the parties agreed to end the tenancy on June 30, 2023. At the hearing, the parties confirmed having signed it and M.D. asked why the hearing was still proceeding.

I note that the Two-Month Notice was signed and served prior to the mutual agreement to end tenancy. As advised by the Landlords, the Tenant proposed the agreement to end the tenancy when she served her application. I find that the mutual agreement to end tenancy is in all material respects a settlement of the question of whether the Two-Month Notice was enforceable or not. The parties agreed to end the tenancy later than

the effective date of the Two-Month Notice and did so after the notice was filed and after the Tenant filed and served her dispute.

Section 63 of the *Act* permits me to assist the parties in settling their dispute. In this instance, I find that the parties settled their dispute prior to the hearing such that it is no longer necessary. Accordingly, I grant the Landlords an order of possession effective at 1:00 PM on June 30, 2023 as per the parties agreement. It is the Landlords' obligation to serve the order of possession on the Tenants and it may be enforced at the BC Supreme Court.

With respect to the application itself, I find that it is moot at this point. Accordingly, I dismiss it without leave to reapply in its entirety.

The tenants' claim under s. 62 of the *Act* for an order that the Landlords comply with the *Act*, Regulations, or tenancy agreement and is described by them as an unlawful rent increase. Strictly speaking, this claim is improperly pled and ought to have been filed as a disputed rent increase such that it lacks the particulars required under s. 59(2) of the *Act*. However, in the interest of being clear on this point, I make no findings on a disputed rent increase and my dismissal of the tenants' claim under s. 62 of the *Act* without leave to reapply should in no way be construed as a bar to the tenants to filing to dispute a rent increase, provided it is properly pled.

I make no findings of fact or law with respect to the substantive issues in dispute. Nothing in this settlement agreement is to be construed as a limit on either parties' entitlement to compensation or other relief to which they may be entitled to under the *Act*.

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: May 02, 2023

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Residential Tenancy Branch