



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      RR, OLC, FFT;   MNRL-S, MNDL-S, FFL

### Introduction

This hearing dealt with the tenant's application, filed on January 9, 2023, pursuant to the *Residential Tenancy Act* ("Act") for:

- an order allowing the tenant to reduce rent of \$3,200.00 for repairs, services, or facilities agreed upon but not provided, pursuant to section 65;
- an order requiring the landlords to comply with the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 62; and
- authorization to recover the \$100.00 filing fee paid for his application, pursuant to section 72.

This hearing also dealt with the landlords' application, filed on March 11, 2023, pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order of \$16,033.50 for unpaid rent and for damage to the rental unit, pursuant to section 67;
- authorization to retain the tenants' security deposit of \$2,550.00, pursuant to section 38; and
- authorization to recover the \$100.00 filing fee paid for their application, pursuant to section 72.

The tenant and "landlord BG" did not attend this hearing. Landlord HYL ("landlord") and the landlords' agent 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 12 minutes from 9:30 a.m. to 9:42 a.m. I monitored the teleconference line throughout this hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from

the teleconference system that the landlord, the landlord's agent, and I were the only people who called into this teleconference.

The landlord and the landlords' agent confirmed their names and spelling. The landlord provided her mailing address for me to send this decision to the landlords after this hearing.

The landlord affirmed that she had permission to represent landlord BG, who she said is her husband (collectively "landlords"). She stated that the landlords' agent had permission to represent both landlords at this hearing. She identified the landlords' agent as the primary speaker.

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, the landlord and the landlords' agent both 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 the landlord and the landlords' agent. I informed them that I could not provide legal advice to them. They had an opportunity to ask questions, which I answered. They did not make any adjournment or accommodation requests.

#### Preliminary Issue – Dismissal of Tenant's Application

The landlords' agent confirmed receipt of the tenant's application for dispute resolution hearing package. In accordance with section 89 of the *Act*, I find that both landlords were duly served with the tenant's application.

Rule 7.3 of the RTB *Rules* states the following:

*7.3 Consequences of not attending the hearing: If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.*

In the absence of any appearance by the tenant, I order the tenant's entire application dismissed without leave to reapply.

I informed the landlord and the landlords' agent of my decision verbally during this hearing and they affirmed their understanding of same.

Preliminary Issue – Severing the Landlords' Monetary Application

The following RTB *Rules* state (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.**

*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 the landlord and the landlords' agent 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 claim. The tenant applied for 3 claims in his application and the landlords applied for 4 claims in their application.

I informed the landlord and the landlords' agent 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 requiring the landlords to comply with the *Act, Regulation* or tenancy agreement. I notified them that this was the central and most important, urgent issue to be dealt with at this hearing.

At the outset of this hearing, the landlords' agent affirmed that the tenant vacated the rental unit on January 22, 2023, and the landlords took back possession of the rental unit.

I informed the landlord and the landlords' agent that the tenant filed his application first on January 9, 2022, shortly before vacating the rental unit on January 22, 2023. I

notified them that the landlords filed their monetary application over 2 months later on March 11, 2023, and it was joined to be heard together with the tenant's application at this hearing. I informed them that the landlords' monetary claims are not related to the tenant's main, urgent ongoing tenancy claim. I notified them that the landlords' monetary claims were non-urgent lower priority issues, that could be severed at a hearing. This is in accordance with Rules 2.3, 2.9, and 6.2 of the RTB *Rules* above. They affirmed their understanding of same.

I informed the landlord and the landlords' agent that the landlords' monetary application, totalling \$16,033.50.00, was dismissed with leave to reapply, and the landlords' application to recover the \$100.00 filing fee was dismissed without leave to reapply. I notified them that the landlords are at liberty to file a new application and pay a new filing fee, if they want to pursue these monetary claims in the future. They affirmed their understanding of same.

### Conclusion

The tenant's entire application is dismissed without leave to reapply.

The landlords' application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the landlords' application is 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: May 05, 2023

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Residential Tenancy Branch