



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding LE GERS PROPERTIES INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, OL, FFL; CNC, MNDCT, FFT

### Introduction

This hearing dealt with the landlord's application, filed on November 28, 2023, pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession for cause, pursuant to section 55;
- other unspecified relief; and
- authorization to recover the \$100.00 filing fee paid for its application, pursuant to section 72.

This hearing also dealt with the tenant's application, filed on September 14, 2023, pursuant to the *Act* for:

- cancellation of the landlord's One Month Notice to End Tenancy for Cause, dated September 7, 2023, and effective on October 31, 2023 ("1 Month Notice"), pursuant to section 47;
- a monetary order of \$168.00 for money owed or 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.

The landlord's agent, the landlord's lawyer, the tenant, and the tenant's advocate 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 47 minutes from 11:00 a.m. to 11:47 a.m. The tenant and her advocate left the hearing at 11:27 a.m. to discuss settlement options privately. The tenant's advocate returned to the hearing at 11:32 a.m. and the tenant returned at 11:33 a.m.

All hearing participants confirmed their names and spelling. The landlord's lawyer and the tenant both provided their email addresses for me to send copies of this decision to both parties.

The landlord's agent confirmed that the landlord company ("landlord") named in this application owns the rental unit. He provided the legal name of the landlord and the rental unit address. He said that he and the landlord's lawyer had permission to represent the landlord. He identified the landlord's lawyer as the primary speaker for the landlord.

The tenant confirmed that her advocate had permission to assist her. The tenant identified herself as the primary speaker for the tenant.

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, all hearing participants separately affirmed that they would not record this hearing.

I explained the hearing and settlement processes, and the potential outcomes and consequences, to both parties. Both parties had an opportunity to ask questions. 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. During this hearing, the landlord's agent and the landlord's lawyer spoke privately with each other, and the tenant and her advocate spoke privately with each, regarding settlement options.

The tenant confirmed receipt of the landlord's application for dispute resolution hearing package. The landlord's lawyer confirmed receipt of the tenant's application for dispute resolution hearing package. In accordance with section 89 of the *Act*, I find that the tenant was duly served with the landlord's application and the landlord was duly served with the tenant's application.

#### Preliminary Issue – Severing the Tenant's Monetary Claim

The following RTB *Rules* are applicable and 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.***

Rules 2.3 and 6.2 of the RTB *Rules* allow me to sever issues that are not related to both parties' main, urgent applications. The tenant applied for 3 different claims and the landlord applied for 3 different claims, for a total of 6 different claims in both parties' applications.

I notified both parties that they were provided with a priority hearing date, due to the urgent nature of their claims for an order of possession and to cancel the landlord's 1 Month Notice. I informed them that these are the central and most important, urgent issues to be dealt with at this hearing. I notified them that the tenant's monetary claim is a non-urgent, lower priority, and unrelated issue, and it can be severed at a hearing. This is in accordance with Rules 2.3 and 6.2 of the RTB *Rules* above. Both parties affirmed their understanding of same.

I informed both parties that after 47 minutes of this 60-minute maximum hearing time, there was insufficient time to deal with the tenant's monetary claim at this hearing. Both parties declined to settle this monetary claim at this hearing, even though they were provided with an opportunity to do so. Both parties submitted documents and evidence for this claim.

I informed both parties that the tenant's claim for a monetary order of \$168.00 for money owed or compensation for damage or loss under the *Act, Regulation*, or tenancy agreement, was severed and dismissed with leave to reapply. The landlord's lawyer consented to same. I notified both parties that the tenant can file a new RTB

application, if she wants to pursue this claim in the future. They affirmed their 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 this hearing, the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute, except for the tenant's monetary claim.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time, except for the tenant's monetary claim:

1. Both parties agreed that this tenancy will continue until it is ended in accordance with the *Act*;
2. The landlord agreed that the landlord's 1 Month Notice, dated September 7, 2023, is cancelled and of no force or effect;
3. Both parties agreed that the landlord will provide 30 days' written notice of required work, to the tenant by email, and the tenant will, at her own expense, temporarily relocate her shed away from the perimeter drain system to a location to be determined by the landlord's contractor, and all other work will be done at the landlord's expense;
4. Both parties agreed that once the landlord's above required work is completed, the tenant will, at her own expense, put her shed back in its original location;
5. Both parties agreed to bear their own costs for the \$100.00 filing fees paid for their applications;
6. Both parties agreed that this settlement agreement constitutes a final and binding resolution of both parties' applications, except for the tenant's monetary claim.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties, except for the tenant's monetary claim. 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 tenant's monetary claim.

The terms and consequences of the above settlement were reviewed in detail, with both parties during this lengthy 47-minute hearing. Both parties were provided with ample time during this hearing to think about, ask questions, discuss, negotiate, and decide about the above settlement terms.

The landlord's agent agreed that he had permission to make this agreement on behalf of the landlord. He confirmed that he made this agreement with the assistance and legal advice of the landlord's lawyer.

The tenant agreed that she made this agreement with the assistance of her advocate.

### Conclusion

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

This tenancy continues until it is ended in accordance with the *Act*. The landlord's 1 Month Notice, dated September 7, 2023, is cancelled and of no force or effect.

Both parties must bear their own costs for the \$100.00 filing fees paid for their applications.

The tenant's application for a monetary order of \$168.00 for money owed or compensation for damage or loss under the *Act*, *Regulation*, or tenancy agreement, 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 *Act*.

Dated: December 20, 2023

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Residential Tenancy Branch