



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Sese Holdings Limited  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, MNRL-S, MNDCL-S, FFL

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord's agent.

The landlord testified each tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* personally to the female tenant on January 27, 2022 in accordance with Section 89.

The landlord also submitted documentary evidence confirming that this service was witnessed by a third party and that the female tenant acknowledged receipt of both hearing packages on January 27, 2022.

Based on the undisputed testimony and documentary evidence of the landlord, I find that each tenant has been sufficiently served with the documents pursuant to the *Act*.

Residential Tenancy Branch Rule of Procedure 4 outlines the requirements for considering amendments to an Application for Dispute Resolution.

Rule 4.1 states that an applicant may amend a claim by completing an Amendment to an Application for Dispute Resolution form and filing the completed Amendment to an Application for Dispute Resolution form and supporting evidence with the Residential Tenancy Branch or through a Service BC Office. It goes on say an amendment may add to, alter or remove claims made in the original application.

Rule 4.2 stipulates that in circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing. If an amendment to an application is sought at a hearing, an Amendment to an Application for Dispute Resolution need not be submitted or served.

I note the landlord's original Application for Dispute Resolution sought rent for the month of January 2022, however the landlord sought, at the hearing to include a claim for rent for the months of February, March, and April 2022. As the landlord's original claim included a claim for rent, I find that it is reasonable, in the circumstances, to increase that claim while waiting for this hearing to be conducted.

Therefore, I amend the landlord's claim for unpaid rent to be in the amount of \$8,800.00 increased from the original claim of \$2,200.00.

#### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for cause; to a monetary order for unpaid rent; for a strata fine; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 26, 38, 47, 55, 67, and 72 of the Act.

#### Background and Evidence

The landlord submitted the following relevant documents:

- A copy of a tenancy agreement signed by the parties on December 7, 2021 for a one year fixed term tenancy beginning on December 7, 2021 for a monthly rent of \$2,200.00 due on the 1<sup>st</sup> of each month with a security deposit of \$1,100.00 and a pet damage deposit of \$1,100.00 paid; and
- A copy of a One Month Notice to End Tenancy for Cause issued on December 29, 2021 with an effective vacancy date of January 31, 2022 citing the tenant or a person permitted on the property has significantly interfered with or unreasonably disturbed another occupant or the landlord and put the landlord's property at significant risk; and the tenant has breached a material term of the tenancy agreement and not corrected the breach within a reasonable time.

The landlord submitted that the Notice to End Tenancy was served to the tenant personally on December 29, 2021. The landlord also testified that the tenant has not paid any rent for the months of January, February, March or April 2022.

The landlord also seeks recovery of a strata fine, in the amount of \$200.00, imposed by the strata related to the tenant's dog being greater than 20 kilograms contrary to strata bylaws. The landlord has provided a copy of the relevant bylaw but has not provided confirmation that they were fined by the strata for any breach of this bylaw.

## Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if, among other reasons, one or more of the following applies:

- a) The tenant or a person permitted on the residential property by the tenant has
  - i. Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property, or
  - ii. Put the landlord's property at significant risk;
- b) The tenant
  - i. Has failed to comply with a material term, and
  - ii. Has not corrected the situation within a reasonable time after the landlord gives written notice to do so;

Section 47(2) states that a notice under this section must end the tenancy effective on a date that is not earlier than one month after the date the notice is received, and the day before the day in the month, that rent is payable under the tenancy agreement.

Section 47(4) allows a tenant to dispute a notice under Section 47 by making an application for dispute resolution within 10 days after the date the tenant **receives** the notice.

Section 47(5) stipulates that if a tenant does not submit an Application to dispute a Notice to End Tenancy under this section the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit.

Based on the landlord's undisputed testimony, I find that the tenants received the One Month Notice to End Tenancy for Cause on December 29, 2021. As such, I find the tenant had until January 10, 2022 (the first day the Residential Tenancy Branch was open after the 10 day period expired on January 8, 2022) to submit an Application for Dispute Resolution seeking to cancel the One Month Notice.

There is no evidence before me that the tenant submitted an Application for Dispute Resolution seeking to cancel the Notice to End Tenancy. As such, I find the tenants are conclusively presumed to have accepted the tenancy has ended, pursuant to Section 47(5).

I also accept the landlord's undisputed testimony and evidence that the tenant has failed to pay rent for the months of January, February, March, and April 2022 in the amount of \$8,800.00.

As to the landlord's claim for the \$200.00 bylaw fine, I dismiss this portion of the landlord's claim without leave to reapply, as the landlord has provided no evidence that

they have incurred any costs relating to any fine issued by the strata for the actions of the tenant.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenants**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$8,900.00** comprised of \$8,800.00 rent owed and the \$100.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and pet damage deposit held in the amount of \$2,200.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$6,700.00**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

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 05, 2022

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Residential Tenancy Branch