



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CENTURY 21 EXECUTIVES REALTY  
LTD and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes CNC, RR, PSF, RP, OLC, LRE, FFT

### Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlords' One Month Notice to End Tenancy for Cause, dated March 8, 2022 ("1 Month Notice"), pursuant to section 47;
- an order allowing the tenants to reduce rent of \$35,000.00 for repairs, services, or facilities agreed upon but not provided, pursuant to section 65;
- an order requiring the landlords to provide services or facilities required by law, pursuant to section 65; and
- an order requiring the landlords to complete regular repairs to the rental unit, pursuant to section 32;
- an order requiring the landlords to comply with the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 62;
- an order restricting the landlords' right to enter the rental unit, pursuant to section 70; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlords' two agents, "landlord JS" and "landlord SM," tenant KA ("tenant"), and "tenant RM" attended the 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 41 minutes from 9:30 a.m. to 10:11 a.m.

The landlords' two agents and the tenant all confirmed their names and spelling. Landlord JS and the tenant provided their email addresses for me to send a copy of my decision to both parties after the hearing.

Landlord JS confirmed that he is the property manager for the landlord company (“landlord”) named in this application. He said that both he and landlord SM had permission to represent the landlord and the individual landlord RZ (“owner”), also named as a landlord-respondent party in this application. He confirmed that the landlord is an agent for the owner. He provided the rental unit address.

Landlord SM confirmed that he was the former property manager for the landlord, he recently retired, and he had knowledge of this tenancy. He said that he had permission to represent the landlord and owner at this hearing

The landlord and the owner are collectively referred to as “landlords” in this decision and accompanying monetary order.

The tenant confirmed that he had permission to represent tenant RM at this hearing (collectively “tenants”). He said that tenant RM was nearby, but she did not testify or affirm an oath at this hearing.

Rule 6.11 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure* (“Rules”) does not permit recording of this hearing by any party. At the outset of this hearing, the landlords’ two agents and the tenant all separately affirmed, under oath, that they would not record this hearing.

At the outset of this hearing, I explained the hearing and settlement processes, and the potential outcomes and consequences, to both parties. I informed them that I could not provide legal advice to them. I notified them that my role as an Arbitrator was to make a decision or record a written settlement regarding this application only. 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, except for the tenants’ filing fee and monetary claim.

Landlord SM confirmed receipt of the tenants’ application for dispute resolution hearing package. The tenant confirmed receipt of the landlords’ evidence. In accordance with sections 88 and 89 of the *Act*, I find that both landlords were duly served with the tenants’ application and both tenants were duly served with the landlords’ evidence.

The tenant confirmed receipt of the landlords' 1 Month Notice. Both parties agreed that the notice is dated March 8, 2022, and the effective move-out date is April 30, 2022. In accordance with section 88 of the *Act*, I find that both tenants were duly served with the landlords' 1 Month Notice.

Pursuant to section 64(3)(c) of the *Act*, I amend the tenants' application to correct the legal name of the landlord. The tenant requested this amendment and indicated that he mistakenly inverted the landlord's name in this application. Landlord JS consented to this amendment during this hearing. I find no prejudice to either party in making this amendment.

### 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 tenants' filing fee and monetary claim.

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

1. Both parties agreed that this tenancy will end by 1:00 p.m. on August 31, 2022, by which time the tenants and any other occupants will have vacated the rental unit;
2. The landlords agreed that the landlords' 1 Month Notice, dated March 8, 2022, was cancelled and of no force or effect;
3. The tenants agreed that this settlement agreement constitutes a final and binding resolution of their application at this hearing, except for their filing fee and monetary claim.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties affirmed at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties affirmed at the hearing 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 41-minute hearing. Both parties had opportunities to ask questions and to negotiate and discuss the settlement terms in detail. Both parties affirmed under oath that they fully understood the above settlement terms and were agreeable to them.

### Severing the Tenants' Monetary Application

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.***

Rule 2.3 of the RTB *Rules of Procedure* allows me to sever issues that are not related to the tenants' main urgent application. The tenants applied for seven different claims in this application. I informed the tenant that the tenants were provided with a priority hearing date, due to the urgent nature of their claims to cancel the 1 Month Notice, an order for repairs, an order for services and facilities, an order to comply, and an order to restrict the landlords' right to enter. I notified him that these were the central and most important, urgent issues to be dealt with at this hearing. Both parties did not settle the tenants' monetary application at this hearing, despite being given an opportunity to do so. The tenant confirmed his understanding of the above information.

I informed the tenant that the tenants' monetary application for a rent reduction of \$35,000.00 was dismissed with leave to reapply. I notified the tenant that the tenants' monetary claim was a non-urgent lower priority issue, and it could be severed at a hearing. This is in accordance with Rules 2.3 and 6.2 of the RTB Rules above. Six of the tenants' seven claims were dealt with at this hearing. I notified the tenant that, after 41 minutes, there was insufficient time to deal with the tenants' monetary application at this hearing. Both parties submitted voluminous documents and evidence for the monetary application. The tenant confirmed his understanding of the above information.

I informed the tenant that the tenants could file a new application, if they want to pursue the monetary claim for \$35,000.00 in the future. I notified him that this current application file would be closed, and its evidence and contents would not be transferred over to any new application files. I informed him that I could not provide legal advice to the tenants regarding any future applications, including when to file them, why to file them, or what information to include in them. The tenant confirmed his understanding of the above information.

Throughout this hearing, the tenant was upset and argumentative about my decision to sever the tenants' monetary claim. He repeatedly argued with me and interrupted me while I was speaking. He made repeated submissions regarding the tenants' monetary application. I repeatedly explained to him that the tenants' monetary claim was severed with leave to reapply and that I could not hear submissions regarding the merits of that claim, since I was not making a decision regarding same.

I repeatedly cautioned the tenant about the above inappropriate behaviour at this hearing, but he continued with same, despite my repeated warnings. This hearing lasted longer, due to the tenant's repeated submissions and arguments regarding the tenants' monetary application.

### Filing Fee

Both parties did not settle the tenants' application to recover the \$100.00 filing fee. The tenant asked that I make a decision about it.

The filing fee is a discretionary award usually issued by an Arbitrator after a full hearing is conducted on the merits of the tenants' application, a decision is made by the Arbitrator, and the tenants are successful. Both parties settled the tenants' application except for the monetary claim, which was severed. I was not required to conduct a full hearing or make a decision on the merits of the tenants' application.

For the above reasons, I dismiss the tenants' application to recover the \$100.00 filing fee, without leave to reapply.

Conclusion

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

To give effect to the settlement reached between the parties and as discussed with them during the hearing, I issue the attached Order of Possession effective at 1:00 p.m. on August 31, 2022, to be used by the landlord(s) **only** if the tenant(s) do not abide by condition #1 of the above settlement. The tenant(s) must be served with a copy of this Order. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The landlords' 1 Month Notice, dated March 8, 2022, is cancelled and of no force or effect.

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

The tenants' application for an order allowing them to reduce rent of \$35,000.00 for repairs, services, or facilities agreed upon but not provided, is severed and 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: July 08, 2022

---

Residential Tenancy Branch