



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      CNC MNDCT OLC LRE FFT

### Introduction

This dispute related to the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for the following:

1. Cancel a 1 Month Notice to End Tenancy for Cause (1 Month Notice),
2. Monetary claim of \$1,062.50,
3. Two orders against the landlord,
4. Filing fee.

The parties attended the teleconference hearing were affirmed. The tenant testified that they have not lived at the rental unit since September of 2022 and is renting elsewhere for \$1,000 per month in Surrey. The landlords testified that the roommates of the tenant were never roommates and that the tenant instead posed as the landlord and property owner, neither of which the tenant was according to the landlords.

The landlords confirmed they formed a new tenancy agreement with other tenants and that the rental unit is now occupied by new tenants as a result. The tenant claims he was away on holidays in September and that his roommates were there and in November the landlords entered the rental unit and formed a new tenancy. The landlords' position is that the tenant never had roommates and tried to sublet without permission to sub-tenants but had no authority as landlord or permission from the landlord to do so. The landlords also stated that they have at least 3 witness statements to support this.

### Preliminary and Procedural Matters

Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 2.3 authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated several matters of dispute on the application, the most urgent of which is the application to cancel the 1 Month Notice. I find that not all the claims on the application are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenant's request to cancel the 1 Month Notice and the filing fee at this proceeding. The balance of the tenant's application is dismissed, with leave to re-apply.

Given the above, I find a new tenancy agreement has been formed, which I am unable to end at this proceeding. Further, the tenant confirmed they are renting in Surrey and paying \$1,000 per month, since filing their application. Therefore, I find that proceeding with this hearing is no longer necessary as I am unable to end a new tenancy when the tenant is now renting elsewhere.

The agent confirmed the email addresses for the landlord and the tenants during the hearing. As a result, this decision will be sent to the email addresses for the parties confirmed during the hearing.

The agent requested to amend the application for a monetary claim at the hearing, which I will address in my analysis below.

### Issue to be Decided

- Is continuing this hearing necessary or has a new tenancy been formed already?
- Should the filing fee be granted?

### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

I find this application is no longer necessary as the landlord has already formed a new tenancy with new tenants. In addition, the applicant tenant confirmed they are renting in Surrey for \$1,000 per month. Therefore, I dismiss this application without leave to reapply as the tenancy has ended.

I do not grant the filing fee as a result.

Conclusion

Other than the severed portion described above, the application is dismissed without leave. The filing fee is not granted as noted above.

This decision will be emailed to both parties as described above.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 5, 2023

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Residential Tenancy Branch