

DECISION

Dispute Codes CNC, FF

Introduction

This hearing dealt with the tenant's application pursuant to section 47 of the *Residential Tenancy Act* (the *Act*) for cancellation of the landlord's 1 Month Notice to End Tenancy for Cause and to recover her filing fee pursuant to section 72 of the *Act*.

Both parties attended the hearing and were given a full opportunity to be heard, to present evidence, to make submissions and to call witnesses. The landlord testified that she handed the tenant a 1 Month Notice to End Tenancy for Cause on August 29, 2010. The tenant testified that she handed the landlord a copy of her application for dispute resolution on September 1, 2010. I am satisfied that the parties served these copies to one another in accordance with the *Act*.

The tenant testified that she is vacating the rental premises by October 15 or 16, 2010 and is no longer interested in pursuing her original application to cancel the landlord's notice to end tenancy for cause. She withdrew her original application on this basis.

Issues(s) to be Decided

Is the tenant entitled to amend her original application for dispute resolution to include a new request for a monetary Order from the landlord? Is the tenant entitled to recover the cost of her filing fee for this application from the landlord?

Background and Evidence - Tenant's Request to Amend Application

This periodic tenancy commenced on August 1, 2010. Monthly rent was set at \$1,000.00, payable on the first of each month.

During the hearing, the tenant requested permission to amend her application for dispute resolution. On October 5, 2010, the tenant submitted a written request to the Residential Tenancy Branch to amend her application for dispute resolution. She asked

that her request for a \$1,949.93 monetary Order be added to her existing application for dispute resolution. She noted that this amendment was for her claim for moving costs, diminished quality of her home and surroundings during her tenancy, and other costs relating to the landlord's issuance of the notice to end her tenancy.

The landlord objected to the tenant's attempt to amend the tenant's application for dispute resolution. The landlord submitted written evidence of a 10 Day Notice to End Tenancy for Unpaid Rent for October 2010 that the tenant received on October 4, 2010. The landlord made an oral request for a monetary order directing the tenant to pay outstanding rent and the landlord's losses incurred arising out of this tenancy.

Analysis

Rule 2 of the Residential Tenancy Branch Rules of Procedure reads in part as follows:

2.3 Dismissing unrelated disputes in a single application

If, in the course of the dispute resolution proceeding, the Dispute Resolution Officer determines that it is appropriate to do so, the Dispute Resolution Officer may dismiss unrelated disputes contained in a single application with or without leave to reapply...

2.5 Amending an application before the dispute resolution proceeding

The applicant may amend the application without consent if the dispute resolution proceeding has not yet commenced...

If the application has been served, and all requirements can be met to serve each respondent with an amended copy at least (7) days before the dispute resolution proceeding, the applicant may be permitted to file a revised application with the Residential Tenancy Branch. A copy of the revised application must be served on each respondent at least five (5) days before the scheduled date for dispute resolution proceeding.

The tenant sent the Residential Tenancy Branch an October 5, 2010 letter (copied to the landlord) of her intention to seek an amendment of her original application for dispute resolution. She did not complete or submit an amended application. The

tenant's request for a monetary Order involves issues that have clearly arisen after she submitted her original application for dispute resolution. The tenant's requested amended application asks for a significant monetary Order. I find the tenant's requested amendment totally separate from the tenant's original application for dispute resolution. As such, I dismiss the tenant's request to amend her application for dispute resolution. I allow the tenant leave to reapply for the items requested in her October 5, 2010 letter in a new application under the *Act* should she have evidence to support a claim for a monetary Order.

I make no order regarding the tenant's application to recover her filing fee from the landlord.

The landlord did not apply for dispute resolution and has no recourse for obtaining a monetary Order through the tenant's existing application. The landlord is at liberty to submit her own application for dispute resolution.

Conclusion

I dismiss the tenant's application for cancellation of the landlord's notice to end tenancy for cause on the basis of the tenant's withdrawal of her application. The tenant shall bear the cost of her filing fee for this application.

I dismiss the tenant's request to amend her application for dispute resolution. I allow the tenant leave to reapply for a monetary Order arising out of this tenancy.