



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNR, CNL, ERP, RP, FF, MND, MNR, MNSD, FF,

Introduction

This was the hearing of applications by the landlord and the tenant that were ordered to be heard together. The hearing was conducted by conference call. The landlord's and the tenant participated in the hearing. the tenants applied to cancel Notices to End Tenancy

Issues(s) to be Decided

Are the parties entitled to any of the relief claimed?

Background and Evidence

The tenants applied for dispute resolution on October 22, 2010. In their application they requested orders cancelling a Notice to End Tenancy for landlord's use of property and a Notice to End Tenancy for unpaid rent. The tenants also requested orders requiring the landlord to make repairs, including emergency repairs. The tenants did not submit copies of the Notices to End Tenancy. The landlord did not submit copies of the Notices. At the hearing I was told that the tenants moved out of the rental unit and ended the tenancy in October. The tenants returned the keys to the landlord in November.

The landlords filed their application for dispute resolution on October 29, 2010. The landlords requested monetary orders for damage to the rental unit and for unpaid rent. They requested an order permitting them to retain the security deposit. Although the landlords requested a monetary order they did not claim any amount in the application.

In the area provided to specify the amount of the monetary claim the application form was blank. In a separate document the landlords said that because as of October 20, 2010 the tenants had not removed their possessions from the rental unit, it was not possible to estimate the cost of repairs.

Analysis and Conclusion

The tenant request order cancelling Notices to End Tenancy and they requested repair orders. Because at the hearing of their application they had moved out of the rental unit and ended the tenancy there is no basis to grant the tenants any of the remedies claimed. The tenants' application is dismissed without leave to reapply. I do not award a filing fee for the tenant's application.

The landlord has claimed a monetary orders but did not claim any amount and said in their material that they could not estimate the cost of repairs at the time hey submitted the application.

The landlords filed their application to be heard at the same time as the tenants' application. It was filed prematurely because the landlords were not in a position to provide evidence to establish that they were entitled to an award and if so what the amount of the award should be.

It was not due to any fault or neglect on the landlords' part that they were not in a position to prove their claim at the date of the hearing. The landlord s' claim is therefore dismissed with leave to reapply. The tenants may also apply for a monetary order including an order for the return of their security deposit in accordance with the provisions of section 38 of the *Residential Tenancy Act* if the requirements of the *Act* have been satisfied.

Dated: December 20, 2010.
