



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNC, CNL, ERP, LRE, MNDC, MNR, RPP, OLC, RR, PSF, RP, O, FF

Introduction

This hearing was convened by way of conference call in response to the tenant's application to cancel Notices to End Tenancy for cause and for landlords use of the property; for the landlord to make emergency repairs; to suspend or set conditions on the landlords right to enter the unit; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; for the cost of emergency repairs; for an Order for the landlord to comply with the *Act*; to provide services and facilities required by law; to return the tenants personally property; to make repairs, other issues; and to recover the filing fee from the landlords for the cost of this application.

The tenant and landlord attended the conference call hearing and, gave sworn testimony. The landlord provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing.

Preliminary Issues

A previous hearing took place on October 23, 2013 after the landlord had filed an application for an Early End to Tenancy. At that hearing the landlord was successful and an Order of Possession was issued to the landlord on that date. The landlords have

submitted evidence to show that the order was enforced in Supreme Court and a Writ of Possession was issued on October 31, 2013. This Writ of Possession was executed in full on November 04, 2013 by the Court Bailiffs. The Court Bailiff has attended this hearing and testifies that the tenant's belongings were removed from the rental unit and were loaded on to a truck. The tenant arrived at this time and asked about his personal belongings. The Court Bailiff informed the tenant that his belongings were under seizure and he had an exemption. The tenant has given the forms he needed to fill out and sign in order to claim his exemption. The tenant paid the Court Bailiff and asked them to wait while the tenant went to get a truck for his belongings. The tenant returned and told the Court Bailiff he had a truck arranged for 6.30 p.m. that evening. The tenant asked the Court Bailiff to unload their truck so the tenant could pick up his belongings that evening. The tenant agreed to pay all the landlords costs out of the money removed from the tenants unit that was being held by the Court Bailiffs in trust. The tenant agreed to this. The tenant was then told to go o the Court Bailiffs office to get an invoice and the balance of cash held in trust.

The tenant did not remove his belongings from the street and the landlord received a Notice from the City regarding these. The Court Bailiffs got hold of the tenant and asked him to remove his belongings as agreed as they were getting ruined and stolen.

The tenant filed an application before the Supreme Court and a date was set for that hearing for November 18, 2013. The tenant failed to attend that hearing and the Supreme Court Justice issued an Order for the Court Bailiffs to collect the tenant's belongings and store them for a period of 30 days. The tenant may recover his belongings by going to the Court Bailiff's office and paying the costs incurred for collection and storage of his belongings. The parties do not know at this time if the matter has been dismissed before the Supreme Court or if it is still ongoing.

Analysis

In determining whether or not this matter can be dealt with today I refer the parties to section 58 of the Act and in particular section 58 (2)(c) of the Act which states:

58 (1) *Except as restricted under this Act, a person may make an application to the director for dispute resolution in relation to a dispute with the person's landlord or tenant in respect of any of the following:*

- (a) rights, obligations and prohibitions under this Act;*
- (b) rights and obligations under the terms of a tenancy agreement that*
 - (i) are required or prohibited under this Act, or*
 - (ii) relate to*
 - (A) the tenant's use, occupation or maintenance of the rental unit, or*
 - (B) the use of common areas or services or facilities.*

(2) Except as provided in subsection (4), if the director receives an application under subsection (1), the director must determine the dispute unless

- (a) the claim is for an amount that is more than the monetary limit for claims under the Small Claims Act,*
- (b) the application was not made within the applicable period specified under this Act, or*
- (c) the dispute is linked substantially to a matter that is before the Supreme Court.*

(3) Except as provided in subsection (4), a court does not have and must not exercise any jurisdiction in respect of a matter that must be submitted for determination by the director under this Act.

Section 58(4) of the Act states

(4) The Supreme Court may

(a) on application, hear a dispute referred to in subsection (2)

(a) or (c), and

(b) on hearing the dispute, make any order that the director may make under this Act.

I have no evidence to show that this matter has been dismissed by the Supreme Court. In any event the tenant has lawfully been evicted from the rental unit and much of the tenant's application no longer has any affect. The tenant's belongings are now the responsibility of the Court Bailiffs and must be dealt with in accordance to any Orders issued by the Supreme Court.

Conclusion

Consequently, I must decline Jurisdiction in the matter.

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: November 28, 2013

Residential Tenancy Branch

