



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI CNR OLC ERP RP O

Introduction

This hearing was convened pursuant to the tenants' application to cancel a notice to end tenancy for unpaid rent; to dispute an additional rent increase; and for orders for emergency repairs, repairs and an order that the landlord comply with the Act.

One tenant and both landlords called in to the teleconference hearing.

Preliminary Issues

Res Judicata

On June 20, 2014 the landlord applied through the direct request process for an order of possession and a monetary order pursuant to a notice to end tenancy for unpaid rent. In the decision on the landlord's application, dated June 27, 2014, the arbitrator found that the tenants were deemed to have been served with a notice to end tenancy on June 16, 2014, the tenants failed to pay the full outstanding amount within five days of having been served with the notice. The arbitrator found that the tenancy ended on the effective date of the notice. Accordingly, the arbitrator granted the landlord an order of possession and a monetary order for outstanding rent of \$880.

On July 4, 2014 the tenants applied for a review of that decision, on the ground that the landlord committed fraud. In the review application the tenants claimed that the landlord had illegally increased the rent from \$800 to \$880, and in the direct request application the landlord had fraudulently reported that the rent was \$880 per month. In the review consideration decision dated July 8, 2014, a second arbitrator found, based on the tenants' evidence, that the rent increase was legal that the landlord had not committed fraud. The second arbitrator accordingly confirmed the first arbitrator's decision and orders.

I find that the tenants' applications to cancel a notice to end tenancy for unpaid rent and to dispute a rent increase are *res judicata*; in other words, these two issues have already been determined and I cannot re-hear the issues.

Moot Issues

In the decision dated June 27, 2014 the arbitrator found that the tenancy ended on the effective date of the notice to end tenancy. Because the tenants were deemed to have received the notice on June 16, 2014, the effective date of the notice is automatically corrected to June 26, 2014. The tenancy therefore ended on June 26, 2014.

Because the tenancy has ended, the tenants' applications for orders for emergency repairs, repairs and an order that the landlord comply with the Act are moot. I therefore dismiss these portions of the tenants' application.

Conclusion

I decline to hear the portions of the tenants' applications regarding cancelling a notice to end tenancy and disputing a rent increase, as these matters are *res judicata*.

The remainder of the tenants' application is dismissed.

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: August 18, 2014

Residential Tenancy Branch

