



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

Interim Decision

Dispute Codes:

Tenant's Application (filed March 24, 2015): MNDC; OLC

Landlord's Application (filed April 6, 2015): MNDC; MNR; FF; O

Introduction

This Hearing was scheduled to consider cross applications. The Tenant seeks compensation for damage or loss under the Act, regulation or tenancy agreement; and an Order that the Landlord comply with the Act, regulation or tenancy agreement.

The Landlord seeks compensation for damage or loss under the Act, regulation or tenancy agreement; a Monetary Order for unpaid rent; "other" Orders; and to recover the cost of the filing fee from the Tenant.

It was confirmed that the Tenant received the Landlord's Notice of Hearing documents on April 24, 2015, by registered mail. It was also confirmed that the Tenant received the Landlord's documentary evidence.

It was confirmed that the Landlord received the Tenant's Notice of hearing documents, by registered mail, on March 26, 2015, and that the Landlords received the Tenant's documentary evidence.

The Tenant's Application seeks \$14,000.00 in compensation for damage or loss under the Act, regulation or tenancy agreement. The Tenant's documentary evidence indicates that the Tenant is also seeking the amount of \$306.00 with respect to an error made regarding payment of rent. The Landlord acknowledged that they understood that the Tenant was seeking the total amount of \$14,306.00, but argued that the Tenant's claim in the amount of \$14,000.00 was res judicata, as it was concerning events that took place prior to a previous hearing in January, 2015. The Landlord's legal counsel stated that he prepared his defence with respect to the Tenant's claim in the amount of \$306.00 only. He acknowledged that the Landlord's bookkeeper had made an error.

The Tenant's Application was amended to reflect the total claim of \$14,306.00.

The Tenant stated that she is not arguing anything that has already been decided, and seeks aggravated damages, which were not plead in her original application. She stated that she only just received the Landlord's Application for Dispute Resolution "one week ago" and had not chance to respond to its Application.

The Landlord submitted that they received some of the Tenant's documentary evidence one week ago and that it was with respect to a matter that is scheduled to be heard on May 22, 2015.

The Landlord's legal counsel submitted that the Landlord's Application should have been a stand-alone Application and should not have been scheduled as a cross application.

Rule 2.3 of the Rules of Procedure provides:

2.3 Related issues

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

I find that these matters are not sufficiently related to each other and should not have been scheduled to be heard together. Therefore, I advised the parties that I am adjourning the Landlord's application to be heard alone at a date and time to be provided by the Residential Tenancy Branch.

I also adjourned the Tenant's Application in order to provide her with the opportunity to file rebuttal evidence to the Landlord's evidence with respect to her Application.

I Order the Tenant to provide her rebuttal evidence to the Residential Tenancy Branch and to the Landlord, by registered mail, within 5 days of receipt of this Interim Order.

Conclusion

I order that these Applications be heard separately, pursuant to the provisions of Rule 2.3 of the Rules of Procedure.

The Tenant's Application is adjourned to the date and time provided on the enclosed Notice of Reconvened Hearing.

The Landlord's Application is also adjourned to the date and time provided on the enclosed Notice of Reconvened Hearing.

Neither party is required to serve the other with the enclosed Notices of Reconvened Hearing. The Residential Tenancy Branch will mail out these Notices to the parties at the addresses for service provided on their Applications.

This interim decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: May 15, 2015

Residential Tenancy Branch

