



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDC, O, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy and a monetary order.

The hearing was conducted via teleconference and was attended by the tenant; the landlord and her agent.

Residential Tenancy Branch Rule of Procedure 2.3 states that claims made in an Application for Dispute Resolution must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

It is my determination that the priority claim regarding the 10 Day Notice to End Tenancy for Unpaid Rent and the continuation of this tenancy is not sufficiently related to the tenant's claim for a monetary order for moving expenses. The parties were given a priority hearing date in order to address the question of the validity of the Notice to End Tenancy.

The tenant's monetary claim is unrelated in that the basis for it rests largely on facts not germane to the question of whether there are facts which establish the grounds for ending this tenancy as set out in the 10 Day Notice. In addition, I find that the tenant's claim for moving expenses to vacate the property is premature. I exercise my discretion to dismiss the tenant's monetary claim. I grant the tenant leave to re-apply for her monetary claim.

I also note that in their submission of evidence the landlord has submitted an Application for Dispute Resolution seeking an order of possession and a monetary claim for unpaid rent and security deposit. I confirmed with the landlord that they had not paid the filing fee. As such, I find that the landlord's Application for Dispute Resolution has not been accepted by the Residential Tenancy Branch as an Application and cannot be adjudicated at this time. I note the landlord remains at liberty to file a new and separate Application for Dispute Resolution for this claim.

Finally, the tenant confirmed that she is 90% moved out of the rental unit and anticipates that she will be completely moved out in the next couple of days.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 10 Day Notice to End Tenancy for Unpaid Rent and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

During the hearing the tenant agreed that she will have vacated the rental unit no later than 1:00 p.m. on April 15, 2016.

Conclusion

By agreement of both parties I grant the landlord an order of possession effective **April 15, 2016 after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

As the tenant has not waited to have this matter adjudicated and has, in fact, accepted the end of the tenancy, I dismiss her claim to recover the filing fee from the landlord.

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: April 12, 2016

Residential Tenancy Branch