



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MND, O, FF; MT, CNR, MNR, MNDC, MNSD, RR, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent and for damage to the rental unit, pursuant to section 67;
- authorization to retain the tenants' security deposit in partial satisfaction of the monetary order requested, pursuant to section 38;
- other unspecified remedies; and
- authorization to recover the filing fee for his application, pursuant to section 72.

This hearing also dealt with tenant FD's cross-application pursuant to the *Act* for:

- more time to make an application to cancel the landlord's 10 Day Notice to End Tenancy for Unpaid Rent ("10 Day Notice"), pursuant to section 66;
- cancellation of the landlord's 10 Day Notice, pursuant to section 46;
- a monetary order for the cost of emergency repairs to the rental unit, pursuant to section 33;
- a monetary order for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to obtain a return of the security deposit, pursuant to section 38;
- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. At the outset of the hearing, I notified both parties that I did not have a copy of the landlord's 10 Day

Notice, apparently from March 2016, which is the subject of both parties' applications. Neither party had a copy of the notice in front of them during the hearing. The landlord submitted a copy of a 10 Day Notice from June 2015, but both parties stated that the June 2015 notice was not the subject of their applications.

The tenant said that his lawyer's assistant had submitted written evidence for this hearing to the landlord and the Residential Tenancy Branch ("RTB"), but he could not provide the date or method of service. Neither I nor the landlord received this written evidence. The parties also confirmed that two other individuals, who were part of this tenancy, as the landlord submitted copies of tenancy documents with these individuals named, were not named on either party's application. The landlord stated in his application that the tenant should be seeking relief from these other two individuals, not the landlord, regarding this tenancy.

I find that neither party was prepared to proceed with this hearing today. Neither party submitted a copy of the relevant 10 Day Notice, as required by Rule 2.5 of the RTB *Rules of Procedure*. Neither party named two individuals in their applications, who may be affected by this proceeding. The tenant said that he wanted to consult his lawyer before proceeding any further. Accordingly, I dismissed both parties' applications with leave to reapply. I notified the parties that they could obtain legal advice from a lawyer and information from an information officer at the RTB prior to filing new applications for dispute resolution.

I find that the tenant's application for more time and to cancel the 10 Day Notice was filed on March 10, 2016 and that this date should be used if a future application is brought by either party regarding the relevant 10 Day Notice.

Conclusion

Both parties' applications are dismissed with leave to reapply. 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 22, 2016

Residential Tenancy Branch