



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REQUEST FOR CLARIFICATION

Dispute Codes CNR, OPR, MNR, MDSD & FF

The tenant has made a Request for Clarification. With regard to each of the issues raised I find as follows:

The Request for Clarification correctly pointed out that the validity of the Notice to End Tenancy dated October 13, 2016 and setting the end of tenancy for November 30, 2016 was raised in the Amendment to an Application for Dispute Resolution filed on October 18, 2016 but not identified in the first paragraph of the Decision dated December 5, 2016. The decision does refer to the October 13, 2016 Notice to End Tenancy in the section dealing with the service of the Notice.

I ordered that the Notice to End Tenancy dated October 18, 2016 and setting the end of tenancy for November 30, 2016 be cancelled for the following reasons:

- The October 13, 2016 Notice to End Tenancy is based on the same grounds as the as the September 23, 2016 and relies on the same evidence. I determined that the October 13, 2016 Notice shall be set aside for the reasons set out in the December 5, 2016 decision as both notices rely on the same grounds and similar evidence.
- The landlord's application for an Order for Possession was based on the October 13, 2016. The landlord's application was dismissed in the decision dated December 5, 2016 without leave to re-apply. The landlord does not have a legal right to rely on a Notice to End Tenancy that was the grounds for an application for an Order for Possession that was dismissed without leave to re-apply. .

The Request for Clarification asks that the landlord be ordered not enter her unit without the tenant being present. I determined the Tenant has provided insufficient evidence to justify such an order. I determined that the protections given to the Tenant under

section 29 of the Residential Tenancy Act are sufficient and that it was not appropriate to further limit the landlord's right of entry. The parties are referred to section 29 which provides as follows:

Landlord's right to enter rental unit restricted

29 (1) A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:

- (a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;
- (b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:
 - (i) the purpose for entering, which must be reasonable;
 - (ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;
- (c) the landlord provides housekeeping or related services under the terms of a written tenancy agreement and the entry is for that purpose and in accordance with those terms;
- (d) the landlord has an order of the director authorizing the entry;
- (e) the tenant has abandoned the rental unit;
- (f) an emergency exists and the entry is necessary to protect life or property.

(2) A landlord may inspect a rental unit monthly in accordance with subsection (1) (b).

The Request for Clarification asks for an explanation why only half of the filing fee was awarded as she was "not found at fault." The decision dated December 5, 2016 provides the reason as follows:

"...The tenant has been successful with her application to cancel the Notice to End Tenancy but unsuccessful with her application for a monetary order. I determined the Tenant is entitled to recover one half of the cost of the filing fee. I ordered that the landlord pay to the Tenant the sum of \$50 which represents ½ of the cost of the filing fee such sum may be deducted from future rent."

No further clarification is necessary.

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: December 30, 2016

Residential Tenancy Branch