



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNR, MNDC, MNSD, OLC, ERP, RP, PSF, LAT, RR, O, FF

Introduction

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent ("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 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 requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement, pursuant to section 62;
- an order requiring the landlord to make emergency and regular repairs to the rental unit, pursuant to section 33;
- an order requiring the landlord to provide services or facilities required by law, pursuant to section 65;
- authorization to change the locks to the rental unit, pursuant to section 70;
- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- other unspecified remedies; and
- authorization to recover the filing fee for this application, 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 this hearing, the tenant confirmed that she had already vacated the rental unit and she was not intending to return. She said that she did not need to cancel

the landlord's 10 Day Notice or for any repairs to be done. She said that she wanted to withdraw the remainder of her application, except for the filing fee, because the information officer refused to take her supporting evidence for the rest of her claim. She said that she filed her application online, while she was in the waiting room at a Residential Tenancy Branch ("RTB") office, because it took so long for the wait. She said that after filing online, she spoke with an information officer who told her that she could only deal with the most urgent relief of cancelling the 10 Day Notice and only provide evidence with respect to payment of rent. She said that he told her that she could later reapply for the remainder of the relief in her application.

During the hearing, I advised the tenant that I was allowing her to withdraw most of her claims and reapply because her supporting evidence was refused at the RTB and she was told that she could only deal with the most urgent issue of the 10 Day Notice. The landlord raised no objection to this. The tenant then requested that a decision be made regarding the filing fee.

The filing fee is a discretionary award issued by an Arbitrator usually after a party is fully successful on the merits of their application, once a full hearing has been conducted and the Arbitrator makes a decision about the merits. The tenant did not pursue the relief of cancelling the 10 Day Notice, which was the primary issue for this hearing, as told to the tenant by the information officer. She said that she moved out of the rental unit on her own accord because she did not want to deal with the landlord anymore, who was threatening to evict her, despite the fact that she paid rent. The landlord disputed the tenant's assertions.

As I was not required to make a decision on the merits of the tenant's application regarding the 10 Day Notice and the tenant moved out voluntarily, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

The following claims are dismissed without leave to reapply because the tenant has vacated the rental unit:

- cancellation of the landlord's 10 Day Notice;
- an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement;
- an order requiring the landlord to make emergency and regular repairs to the rental unit;
- an order requiring the landlord to provide services or facilities required by law;
- authorization to change the locks to the rental unit; and

- to recover the \$100.00 application filing fee.

The following claims are withdrawn with leave to reapply:

- a monetary order for the cost of emergency repairs to the rental unit;
- a monetary order for compensation for damage or loss under the *Act, Regulation* or tenancy agreement;
- authorization to obtain a return of the security deposit;
- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided; and
- other unspecified remedies.

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: February 01, 2017

Residential Tenancy Branch