



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, O, OLC

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) filed by the Tenant under the *Residential Tenancy Act* (the “Act”), seeking a Monetary Order in the amount of \$1,100.00, an Order for the Landlord to comply with the Act, regulation, or tenancy agreement, and other unspecified claims.

The hearing was convened by telephone conference call and was attended by the Tenant, the agent for the Tenant (the “Tenant’s Agent”), and two agents for the Landlord (the “Agents for the Landlord”). All parties provided affirmed testimony and were given the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

An Amendment to an Application for Dispute Resolution form (the “Amendment”) was received by the Residential Tenancy Branch (the “Branch”) on November 7, 2017. In the Amendment, the Tenant increased her monetary claim to \$1,710.00 and sought the return of her security deposit and pet damage deposit. The Agents for the Landlord testified that they were never served with the Amendment and when asked, the Tenant and the Tenant’s Agent acknowledged that the Landlord was never served with the Amendment as they mistakenly believed that the Branch was responsible for the service of these documents on the Landlord.

Rule 4.6 of the Rules of Procedure states that as soon as possible, copies of the Amendment and supporting evidence must be produced and served upon each respondent **by the applicant** in a manner required by section 89 of the Act. It also states that a copy of the Amendment and supporting evidence **must** be received by the Respondent not less than 14 days before the hearing. As the Amendment was not served on the respondent in accordance with the Rules of Procedure, I find that it would be a breach of the Rules of Procedure and the principles of natural justice to amend the Application. As a result, the Application was not amended to include the increased monetary claim or the return of the security deposit and pet damage deposit. The Tenant has leave to reapply for these claims.

The Tenant also applied for an Order for the Landlord to comply with the *Act*, regulation, or tenancy agreement as she stated that she is allow to have a pet under her tenancy agreement. However, the Tenant indicated in her Application that she gave notice to move out of the rental unit on August 31, 2017, and vacated the rental unit on September 30, 2017. As the tenancy has ended, the Tenant's claim for an Order for the Landlord to comply with the *Act*, regulation, or tenancy agreement and allow her to have a pet in the rental unit it moot. Based on the foregoing, the Tenant's claim for an Order for the Landlord to comply with the *Act*, regulation, or tenancy agreement is therefore dismissed without leave to reapply.

The Tenant's Agent testified that the Tenant, who is their mother, was served with an illegal pet eviction and that as a result, the dog was temporarily rehomed with their grandmother. The Tenant's Agent testified that the dog, who resides with the Tenant but is owned by the Tenant's Agent and her children, has since run away from the grandmother's home. As a result, the Tenant is seeking \$1,100.00 from the Landlord to cover the original purchase price of the dog.

Section 62 of the *Act* states that the director has authority to determine disputes in relation to which the director has accepted an Application, and any matters related to that dispute that arise under this *Act* or a tenancy agreement. I acknowledge that an Application has been accepted. However, I find that I must determine whether I have the jurisdiction to hear this matter under the *Act* prior to considering the merits of the Application.

The Tenant's Agent argued that the Landlord is ultimately responsible for the loss of the dog because it would not have been at their grandmother's house if the Tenant had not been served with an illegal pet eviction. However, based on the documentary evidence before me and the testimony of the Tenant's Agent, the Tenant did not own or pay for the dog and the dog went missing from a third party location not occupied by the Tenant, not owned by the Landlord, and not covered by the tenancy agreement.

Policy Guideline 27 states that the Legislation does not confer upon the Branch the authority to hear all disputes regarding every type of relationship between two or more parties. It also states that the Branch only has the jurisdiction conferred by the Legislation over landlords, tenants and strata corporations. Although there is agreement between the parties that a tenancy exists between the Tenant and the Landlord at the location where the Tenant resides, there is insufficient evidence before me to demonstrate that this matter relates to a dispute that has arisen under the *Act* or the tenancy agreement.

Despite the arguments made by the Tenant and the Tenant's Agent, I find that this dispute actually relates to the disappearance of a dog owned by the Tenant's Agent, not the Tenant, from a third party location which is not owned by the Landlord, not inhabited by the Tenant, and not covered by the tenancy agreement between the Landlord and the Tenant. Further to this, the monetary claim made by the Tenant does not relate to a loss suffered by the Tenant. In fact, the Tenant is seeking the recovery of the purchase price of a dog paid for and owned by her daughter. As a result, I fail to see how this matter relates to a dispute that has arisen under the *Act* or the tenancy agreement and I decline to hear this matter for lack of jurisdiction. I encourage the parties to seek independent legal advice in relation to this matter.

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: November 28, 2017

Residential Tenancy Branch