Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNR DRI ERP MNDCT**

Introduction

This is an application brought by the tenant requesting an order canceling a 10-day Notice to End Tenancy, disputing a rent increase, requesting a $200.00 monetary claim, and requesting an order for emergency repairs.

The applicant testified that the respondent was served with notice of the hearing by personal service on February 8, 2018, however the respondent did not join the conference call that was set up for the hearing.

Pursuant to section 90 of the Residential Tenancy Act, documents sent by registered mail are deemed served five days after mailing and therefore it is my finding that the respondent has been properly served with notice of the hearing and I therefore conducted the hearing in the respondent's absence.

All testimony was taken under affirmation.

Issue(s) to be Decided

First of all it is my decision that I will not deal with all the issues that the applicant has put on this application.

Section 2.4 of the rules of procedure states:

> Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

In this case it is my finding that not all the claims on this application are sufficiently related to the main issue to be dealt with together.

I therefore will deal with the requested cancel the Notice to End Tenancy, the request to dispute a rent increase, and the $200.00 monetary claim, as these all relate to the Notice to End Tenancy.

Further, the applicant stated that he has given the landlord his Notice to End Tenancy and therefore at this point I would not be issuing any repair orders as this tenancy is ending.

Also, the tenant submitted a document requesting further $6500.00 in compensation; however I will not deal with this request as the applicant has not filed a proper amendment of the original application. If the tenant wishes to pursue this claim they will have to file a new application for dispute resolution.

Background and Evidence

The applicant testified that on February 5, 2018 he found a 10-day Notice to End Tenancy posted to his door.

The applicant further testified that he does not believe he owes to landlord any money in utilities, and believes he has overpaid the utilities, and therefore, he's asking that the 10-day Notice to End Tenancy be canceled.

The applicant further testified that on June 30, 2017 he signed an agreement with the landlord to pay $50.00 per month extra, to cover extra water and Hydro as he was wanted to do washing and drying daily. He further states that in that agreement he also agreed to a rent increase to $1037.00 per month starting October 1, 2017.

The applicant further states that he subsequently got the notice of rent increase from the landlord in the proper form increasing the rent to $1037.00 per month.

The applicant further states that he believes that the $50.00 per month that he has been paying for extra water and Hydro is an illegal rent increase, and he believes that money should be refunded, and that he does therefore not owe the money claimed on the Notice to End Tenancy.

The applicant is therefore requesting that the Notice to End Tenancy be canceled and that the landlord be ordered to pay back the $200.00 he has paid for extra water and Hydro.

Analysis

Section 14(2) of the Residential Tenancy Act states:

> **14**(2) A tenancy agreement may be amended to add, remove or change a term, other than a standard term, only if both the landlord and tenant agree to the amendment.

Further, section 43(1)(c) of the Residential Tenancy Act states:

> **43**(1) A landlord may impose a rent increase only up to the amount
> (c) agreed to by the tenant in writing.

In this case, in a document signed by the tenant and the landlord on June 30, 2017 the tenant both agreed to an amendment to the tenancy agreement requiring the tenant to pay $50.00 per month for extra water and Hydro, and the tenant and landlord also agreed that the rent would increase to $1037.00 on October 1, 2017.

It is my decision that the extra $50.00 per month is not an illegal rent increase; it is an amendment to the tenancy agreement as agreed upon by both the landlord and the tenant pursuant to section 14(2) of the Residential Tenancy Act. This is extra money the parties agreed that the tenant would pay for added value, being daily use of the washer and dryer.

Is my decision therefore, pursuant to section 62 of the Residential Tenancy Act that I will not allow the applicants monetary claim of $200.00.

I will, however set aside the 10-day Notice to End Tenancy, because the landlord did not give the notice in the proper form. Section 52 of the Residential Tenancy Act states:

> **52** In order to be effective, a notice to end a tenancy must be in writing and **must**
> (a) be signed and **dated** by the landlord **(my emphasis)**

In this case, the landlord did not date the Notice to End Tenancy, and therefore it is not a valid notice.

Conclusion

Pursuant to section 62 of the Residential Tenancy Act, the tenant's application for a $200.00 monetary claim is dismissed without leave to reapply.

Pursuant to section 46 and 62 of the Residential Tenancy Act, I hereby cancel the 10-day Notice to End Tenancy and this tenancy continues.

The request for emergency repairs is dismissed without leave to reapply as the tenant is vacating the rental unit.

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: March 12, 2018

Residential Tenancy Branch