



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Landlord: OPC, FFL

Tenant: CNC, MT, LRE, OLC, RP, FFT

Introduction

This hearing dealt with an application by both parties pursuant to the *Residential Tenancy Act* ("Act").

The landlords sought:

- an Order of Possession based on a One Month Notice to End Tenancy for Cause (the One Month Notice) pursuant to sections 47 and 55; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants sought:

- more time to make an application to cancel the One Month pursuant to section 66;
- cancellation of the One Month Notice pursuant to section 47;
- an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70; and
- authorization to recover the filing fee for this application from the landlords pursuant to section 72.

The landlords attended the hearing and were given a full opportunity to be heard, to present their sworn testimony and to make submissions. Landlord M.A. (the landlord) indicated that he would speak on behalf of the landlords in this hearing.

Rules 7.1 and 7.3 of the Rules of Procedure provides as follows:

Commencement of the hearing - The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

The landlord gave undisputed affirmed testimony that the Landlords' Application for Dispute Resolution (Landlords' Application) and evidentiary package were personally served to the tenants. In accordance with sections 88 and 89, I find that the tenants were duly served with the Landlords' Application and evidentiary package.

Preliminary Matters

At the outset of the hearing the landlord testified that the tenants have moved out of the rental unit and that the landlord is no longer seeking an Order of Possession. The landlord requested to withdraw their request for an Order of Possession but maintained that they are still seeking to recover the filing fee.

The Landlords' Application for an Order of Possession is withdrawn.

Issue(s) to be Decided

Are the landlords entitled to recover the filing fee for the Landlords' Application?

Background and Evidence

The landlord testified that this tenancy began on September 1, 2017, with a monthly rent of \$1,600.00 due on the first day of the month. The landlord testified that they continue to retain a combined security and pet deposit in the amount of \$1,000.00.

The landlord gave undisputed affirmed testimony that Tenant M.J. had made indications that he was not intending on vacating the rental unit, including making a tenant's application for dispute resolution to dispute the One Month Notice and they felt it was necessary to make their own Landlords' Application to protect their interests.

Analysis

In the absence of any evidence or submissions from the tenants, I order the Tenant's Application for Dispute Resolution (Tenants' Application) dismissed, without liberty to reapply.

Pursuant to section 55 of the *Act*, if I dismiss the Tenants' Application to cancel a notice to end tenancy, the landlord is entitled to an order of possession if the notice meets the requirements of section 52 of the *Act*. As the landlord testified that the tenant has vacated the rental unit and they do not require an Order of Possession, I do not issue an Order of Possession.

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party.

As the landlord has been successful in this application, I allow them to recover their filing fee from the tenant.

Conclusion

I dismiss the Tenants' Application in its entirety, without leave to reapply.

Pursuant to section 67 of the *Act*, I grant a monetary Order in the landlords' favour in the amount of \$100.00, which allows the landlord to recover the filing fee for the Landlords' Application.

The landlords are provided with this Order in the above terms and the tenant(s) must be served with this Order as soon as possible. Should the tenant(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

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: October 11, 2018

Residential Tenancy Branch