



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Prospero and Milanaka Jovic
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OC

Introduction

This was an application for an Order to Comply with the Act made by the tenant. Only the tenant attended the hearing.

Issue(s) to be Decided

Is the tenant entitled to an Order to Comply with the Act or any other form of relief?

Background and Evidence

The Tenant sent the application for dispute resolution by registered mail on July 14, 2018 to the corporate landlord from the address he obtained from their web site. Upon verification of the tracking number the tenant supplied with Canada Post's web site I determined that the respondent P. was served on July 19, 2018.

The tenant's claim arises from alleged damage and nuisance from pigeons residing or alighting on units above his own. The tenant advised at the hearing that he also seeking compensation for loss of quiet enjoyment. This was not stated in his original application nor did he quantify the claim, provide a monetary work sheet or a formula

upon which any calculation could be made. Furthermore the only documentary evidence that he supplied was photos. The tenant further advised that he received a notice on August 14, 2018 advising him that a new company P.W. had taken over the property management of his building.

Analysis

Rule 2.5 of the Rules of Procedure states:

2.5 Documents that must be submitted with an Application for Dispute Resolution

To the extent possible, the applicant should submit the following documents at the same time as the application is submitted:

- a detailed calculation of any monetary claim being made;
- a copy of the Notice to End Tenancy, if the applicant seeks an order of possession or to cancel a Notice to End Tenancy; and
- copies of all other documentary and digital evidence to be relied on in the proceeding, subject to Rule 3.17 [*Consideration of new and relevant evidence*].

Section 59 (2) and (5) of the Residential Tenancy Act state as follows:

59 (2) An application for dispute resolution must

- (a) be in the applicable approved form,
- (b) **include full particulars of the dispute that is to be the subject of the dispute resolution proceedings**, and
- (c) be accompanied by the fee prescribed in the regulations.

- (5) The director **may refuse to accept an application for dispute resolution** if
 - (c) the application does not comply with subsection (2).

There is a principle of Natural Justice that a party must know what is being claimed so that he or she can defend or respond. In this case the applicant is not clear as to what is being claimed. Accordingly I find that because of the Rules, Act and principles of

Natural Justice it is only fair that I must dismiss the application with leave to reapply once he particularizes his claim and supplies any relevant and organized evidence.

Furthermore the tenant had named as landlord P. a company that no longer is the property manager of his building as of August 14, 2018. One of the remedies the tenant is seeking is to require that the landlord comply with the Act pursuant to section 62. As P. is no longer the property manager of his unit and P.W. is now, when the tenant recommences his application he ought to add P.W. as the landlord.

Conclusion

I have dismissed with leave to reapply all claims made by the applicant. I declined to make any Order with respect to the recovery of the filing fee.

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: September 06, 2018

Residential Tenancy Branch