



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes AAT, CNL, LAT, MNDCT, OLC, OT, PSF

Introduction

This teleconference hearing was scheduled in response to an application by the Tenants under the *Residential Tenancy Act* (the “Act”). The Tenants applied for an order allowing access to the rental unit, to dispute a Two Month Notice to End Tenancy for Landlord’s Use of Property, authorization to change the locks to the rental unit, monetary compensation, an order for the Landlords to comply with the *Act*, *Residential Tenancy Regulation* or tenancy agreement, and for services or facilities to be provided as required by the *Act* or tenancy agreement.

One Tenant and both Landlords were present for the teleconference hearing. The parties were affirmed to be truthful in their testimony. The Landlords confirmed receipt of the Tenant’s evidence and that they did not submit any documentary evidence prior to the hearing. Neither party brought up any issues with service.

Preliminary Matters

At the outset of the hearing, the Landlords stated that they received an Order of Possession for the rental unit, which was served to the Tenants a few days prior to the hearing. They provided the file numbers for two previous applications and it was confirmed that they received an Order of Possession through the Direct Request process, as well as through an application to end the tenancy early.

As both were effective two days after service, I find that the tenancy has already been ended through service of these orders. Accordingly, the claims of the Tenants that relate to the tenancy are no longer relevant and are dismissed without leave to reapply.

However, as the Tenants applied for monetary compensation in the amount of \$500.00, which may still be relevant regardless of the tenancy ending, the Tenant was provided with an opportunity to present testimony and evidence regarding this claim.

Issue to be Decided

Are the Tenants entitled to monetary compensation?

Background and Evidence

The Tenant was unsure of the amount of compensation she had applied for or what evidence had been submitted in support of her monetary claim. After approximately 18 minutes, she hung up and exited the call. The Landlords had not yet responded to the Tenant's monetary claim prior to her exiting the call.

Analysis

As the tenancy has been ended through service of an Order of Possession, I find that the majority of the Tenants' claims are no longer relevant. The parties were informed that other than the Tenants' monetary claim, the remainder of the Tenants' claims would be dismissed.

The Tenant was provided with an opportunity to present testimony and evidence on her monetary claim of \$500.00 but was unable to provide specific information on what she was claiming. She also exited the hearing early, thus not allowing the Landlords a chance to respond and present their own testimony regarding the monetary claim.

Rule 6.6 of the *Residential Tenancy Branch Rules of Procedure* states that the onus to prove a claim, on a balance of probabilities, is on the party making the claim. As the Tenant did not present sufficient testimony or evidence to establish her monetary claim, and no testimony and evidence was presented by the respondents, I am not satisfied that she is entitled to \$500.00 in compensation.

Therefore, the Tenants' Application for Dispute Resolution is dismissed in its entirety, without leave to reapply. Pursuant to Section 55 of the *Act*, when a tenant's application to dispute a notice to end tenancy is dismissed, the landlord must be granted an Order of Possession. However, the Tenant has already been served with an Order of Possession and therefore I find that the tenancy has already been ended.

Conclusion

The Tenants' Application for Dispute Resolution is dismissed, without leave to reapply.

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: December 07, 2018

Residential Tenancy Branch