



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT CNR ERP LRE OLC RR MNDC

Introduction

This hearing was convened pursuant to the Tenant's Application for Dispute Resolution, made on January 5, 2019 (the "Application"). The Tenant applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"):

- an order granting more time to make an application for dispute resolution;
- an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated November 11, 2018 (the "10 Day Notice");
- an order requiring the Landlord to complete emergency repairs for health or safety reasons;
- an order suspending or setting conditions on the Landlord's right to enter the rental unit or site;
- an order that the Landlord comply with the *Act*, regulation, and/or the tenancy agreement;
- an order reducing rent for services or facilities agreed to but not provided; and
- a monetary order for money owed or compensation for damage or loss.

The Tenant attended the hearing at the appointed date and time, and provided affirmed testimony. The Landlord did not attend the hearing.

The Tenant testified that Landlord was served with the Application package by registered mail on January 11, 2019. A Canada Post customer receipt was submitted in support. Pursuant to sections 89 and 90 of the *Act*, documents served in this manner are deemed to be received 5 days later. Therefore, I find the Application package is deemed to have been received by the Landlord on January 16, 2019.

The Tenant was given a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure, and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Issues – Severance of Unrelated Claims and Request for More Time

Residential Tenancy Branch Rule of Procedure 2.3 permits an arbitrator to exercise discretion to dismiss unrelated claims with or without leave to reapply. The most important issues to address are whether or not the Tenant is entitled to more time to make the Application, and if so, whether or not the tenancy will continue. Accordingly, I find it appropriate to exercise my discretion to dismiss all but the Tenant's requests for an order granting more time to make an application for dispute resolution, and for an order cancelling the 10 Day Notice.

With respect to the Tenant's request for an order granting more time to make an application for dispute resolution, a brief chronology is necessary. The Tenant confirmed he received the 10 Day Notice on November 11, 2018, which he disputed by submitting an application for dispute resolution on November 15, 2018. The hearing of the matter was scheduled on December 18, 2018. However, neither party attended the hearing, and the Tenant's application was dismissed with leave to reapply. The arbitrator confirmed that the decision did not extend any applicable limitation period under the *Act*.

In support of his request for more time, the Tenant relies on a note from his physician dated December 20, 2018, which indicates the Tenant was "unable to meet his commitments" due to illness on December 18, 2018. The Tenant testified he had the flu and did not sleep well the night before.

Based on the above, I find there is insufficient evidence before me to conclude the Tenant is entitled to more time to make an application for dispute resolution. The Tenant provided a reason for being unable to attend the first hearing on December 18, 2018, although it is not clear that his illness would have been a sufficient basis for an application for review consideration.

The Tenant's request for more time to make an application for dispute resolution is dismissed, without leave to reapply. Therefore, it has not been necessary for me to consider the impact of the 10 Day Notice further.

Conclusion

The Tenant's request for more time to make an application for dispute resolution is dismissed, without leave to reapply. The Tenant is granted leave to reapply for the remainder of the relief sought.

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: February 4, 2019

Residential Tenancy Branch