



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION Dispute Codes MNDL-S, MNDCL-S, FFL

Introduction

This hearing was convened as a result of the landlord's Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act"). The landlord applied for a monetary order in the amount of \$5,439.99 for damage to the rental unit, site or property, for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the cost of the filing fee.

The landlord, a witness for the landlord, the tenant, a witness for the tenant, and two tenant advocates ("advocates") attended the teleconference hearing. The parties had the hearing process explained to them and were affirmed. The parties were also provided an opportunity to ask questions about the hearing process.

As the tenant and tenant advocates raised issues about the service of documentary evidence I will deal with that below.

Preliminary and Procedural Matters

An advocate affirmed that the tenant only receive the landlord's document evidence on April 3, 2019, which is two days before the hearing. An advocate also stated that the evidence received was comprised of two packages; that neither package matched and contained different information on the monetary order worksheet. As a result, the landlord was asked to provide the tracking number which has been referenced on the cover page of this decision. The landlord stated that the tracking results were included in evidence submitted 7 days before the hearing, which the landlord was advised I would not be considering as it was submitted one week late and not in accordance with the Rules of Procedure.

In addition, the parties were advised that the online UPS tracking information did not provide the date in which the package was mailed, only the April 3, 2019 date that the package was signed for and accepted by the tenant.

At the outset of the hearing, advocate RP stated that the tenant did not have sufficient time to respond to the evidence submitted late by the landlord. Later in the hearing, the same advocate stated that the matter should be either dismissed without leave to reapply or be heard without the landlord's evidence.

The parties were advised that the landlord's application was being refused, pursuant to section 59(5)(c) of the *Act* because the landlord's application did not provide sufficient particulars of their claim for compensation, as is required by section 59(2)(b) of the *Act* and Rule 2.5 of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules").

Specifically, the landlord at the time they applied failed to provide a breakdown for the \$5,439.99 amount claimed at the time the landlord applied or before the 14 day deadline under the RTB Rules. I find the landlord has provided insufficient evidence for me to consider that the documentary evidence was served on the date alleged by the landlord, in February 2019. The landlord filed their application on December 17, 2018

I find that proceeding with the landlord's claim at this hearing would be prejudicial to the tenant, as the absence of particulars that set out how the landlord arrived at the amount being claimed makes it difficult, if not impossible, for the tenant to adequately prepare a response to the landlord's claim.

Both parties have the right to a fair hearing and the respondent is entitled to know the full particulars of the claim made against them at the time the applicant submits their application. Given the above, the landlord is granted liberty to reapply but is reminded to provide full particulars of their monetary claim. The applicant may include any additional pages to set out the details of their dispute in their application, as required.

In addition to the above, as both parties provided email addresses, the parties will receive this decision by email at the email addresses confirmed during the hearing.

I do not grant the landlord the recovery of the cost of the filing fee due to the landlord's failure to comply with Rule 2.5 of the RTB Rules.

I do not grant the advocates' request to dismiss this matter without leave to reapply as I have the discretion to grant leave under the *Act*, and the advocate originally stated that the tenant did not have time to respond to the landlord's evidence. Therefore, the tenant will have that opportunity should the landlord decide to reapply.

Conclusion

The landlord's application has been refused pursuant to sections 59(5)(c) and 59(2)(b) of the *Act*. The landlord is at liberty to reapply for their monetary claim; however, is encouraged to provide a detailed breakdown of any future monetary claim at the time an application is submitted in accordance with Rule 2.5 of the RTB Rules.

I do not grant the filing fee.

This decision does not extend any applicable timelines under the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: April 5, 2019

Residential Tenancy Branch