



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NOQUITS PROPERTY MANAGEMENT
SERVICES and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

For the landlord: MNDL-S, MNRL-S, MNDCL-S, FFL
For the tenants: MNDCT, FFT

Introduction

This hearing was convened as a result of an Application for Dispute Resolution (“application”) by both parties seeking remedy under the *Residential Tenancy Act* (“Act”).

The landlord applied originally applied for a monetary order in the amount of \$3,502.90 and then amended that application on May 17, 2019 for a higher amount of \$11,789.13. The landlord’s application is for damages to the unit, site or property, for unpaid rent or utilities, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the cost of the filing fee.

The tenants applied for a monetary order in the amount of \$11,199.73 for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the cost of the filing fee.

The landlord and tenants attended the hearing. The parties were introduced and questions were asked of both parties in terms of their respective applications.

Preliminary and Procedural Matters

At the outset of the hearing, the tenants were advised that a Monetary Order Worksheet or other document providing a monetary breakdown of their monetary claim of \$11,119.73 was not submitted in evidence. Therefore, I find the landlord would not be aware of the tenants’ details of their monetary claim without a specific breakdown of

how the tenants arrived at amount of \$11,119.73 amount claim, which I find is a very specific amount. The tenants were advised during the hearing that their application was being refused, pursuant to section 59(5)(c) of the *Act* because the tenant's application did not provide sufficient particulars of their monetary claim for compensation, as is required by section 59(2)(b) of the *Act*. The tenants are at **liberty to re-apply** as a result, but are reminded to include full and clear particulars of their claim when submitting their application in the "Details of Dispute" section of the application, and are encouraged to use the "Monetary Worksheet" form located on the Residential Tenancy Branch ("RTB") website; www.rto.gov.bc.ca. The amount listed on the monetary worksheet being claimed should also match the monetary amount being claimed on the application.

The landlord claims that their application was amended prior to May 17, 2019, which is the date the amendment from \$3,502.90 was increased to \$11,789.13. The landlord claims that there was a delay in amending the landlord's application due to the landlord terminating their former property manager who had filed the original claimed on February 7, 2019. The landlord referred to several emails, which I find do not support that the landlord's application was received and stamped by the RTB as a formally amended application. Therefore, I find the landlord failed to comply with the timelines under RTB Rules of Procedure ("Rules") Rule 4.3 and Rule 4.6.

Rule 4.3 applies and states:

4.3 Time limits for amending an application

Amended applications and supporting evidence should be submitted to the Residential Tenancy Branch directly or through a Service BC Office **as soon as possible and in any event early enough to allow the applicant to comply with Rule 4.6.**

[Emphasis added]

Rule 4.6 applies and states in part:

4.6 Serving an Amendment to an Application for Dispute Resolution

...

In any event, a copy of the amended application and supporting evidence should be served on the respondents as soon as possible **and must be received by the respondent(s) not less than 14 days before the hearing.**

[Emphasis added]

In addition Rule 3.3 applies which states:

3.3 Evidence for cross-Application for Dispute Resolution

Evidence supporting a cross-application must:

- be submitted at the same time as the application is submitted, or within three days of submitting an Online Application for Dispute Resolution;

- be served on the other party at the same time as the Notice of Dispute Resolution Proceeding Package for the cross-application is served; and

- **be received by the other party and the Residential Tenancy Branch directly or through a Service BC Office not less than 14 days before the hearing.**

[Emphasis added]

Given the above, I disagree with the landlord that the amendment was filed earlier than May 17, 2019, given the date stamp on the amendment reads May 17, 2019 and is stamped by the Burnaby RTB office. I also find that the tenants are not responsible for the delay in the landlord terminating their property manager and then later amending the original application on May 17, 2019, which is just 10 days before the date of the hearing. Consequently, the landlord made the decision to withdraw their application in full and reapply at a later date, which the tenants did not object to during the hearing.

Given the above, I **do not** grant the recovery of the filing fee for either party.

I have not considered the merits of either application as a result.

The parties are encouraged to set out their entire claim at the time they apply, including a detailed monetary breakdown of the amount claimed.

Conclusion

The tenants' application is refused for the reasons stated above. The tenants are a liberty to reapply.

The landlord has withdrawn their application in full. The landlord has liberty to reapply.

I do not grant the filing fee to either party.

This decision will be emailed to both parties at the email addresses confirmed at the outset of the hearing.

The merits of both applications have not been heard. I am not seized of either matter as a result.

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: May 28, 2019

Residential Tenancy Branch