



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, OLC, LRE, MNDCT

Introduction

On September 29, 2019, the Tenant applied for a Dispute Resolution proceeding seeking to dispute a rent increase pursuant to Section 41 of the *Residential Tenancy Act* (the “*Act*”), seeking an Order for the Landlord to comply pursuant to Section 62 of the *Act*, seeking to restrict the Landlord’s right to enter pursuant to Section 70 of the *Act*, and seeking a Monetary Order for compensation pursuant to Section 67 of the *Act*.

The Tenant attended the hearing with J.A., T.B., and M.K. attending the hearing as advocates for the Tenant. The Landlord attended the hearing as well, with J.N. attending as a translator for the Landlord. All in attendance provided a solemn affirmation.

J.A. confirmed that the Landlord was served the Notice of Hearing package by registered mail on October 3, 2019 and the Landlord confirmed that he received this package. As well, a tracking number for this package was provided, indicating that the Landlord signed for this package on October 8, 2019. Based on this undisputed evidence, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was served with the Notice of Hearing package.

J.A. advised that the Tenant served his evidence to the Landlord’s daughter on October 23, 2019; however, he did not have proof of this service. In addition, she stated that she was unable to submit the Tenant’s evidence to the Residential Tenancy Branch until the night before the hearing and that no one else was able to submit this on the Tenant’s behalf. The Landlord was asked if and when he received this evidence, and while he had no difficulty understanding and answering multiple questions prior to this, he could not provide an answer and stated that he needed his son to translate. J.N. asked to translate this question; however, as the Landlord answered more complicated questions

earlier and had no difficulty understanding me or communicating throughout the other preliminary matters, I advised that I would like to hear the Landlord's submissions on this point first. The Landlord advised that he did not receive this evidence until November 3, 2019, when he returned from church and found it in his mailbox.

J.N. then reiterated that this evidence was discovered late and the Landlord had not had time to address the Tenant's Application as it was not received until November 3, 2019. When he was advised that the Landlord had signed for the Notice of Hearing package on October 8, 2019 and that the Landlord already acknowledged receiving the Notice of Hearing package on this date so there was no reason why he would not be aware of the claims of the Tenant, J.N. had no response and appeared to be evasive. This, along with the Landlord's sudden inability to answer this simple question, caused me to question the credibility of the Landlord and J.N.

However, I find it important to note that the Tenant's evidence was not submitted to the Residential Tenancy Branch in compliance with the timeframe requirements of Rule 3.14 of the Rules of Procedure. As such, and in combination with there being no proof of service of the Tenant's evidence, the parties were advised that I would reserve judgement on acceptance of this evidence.

J.N. advised that the Landlord's evidence was posted to the Tenant's door and emailed to J.A. on November 5, 2019. The Tenant acknowledged that he received this evidence on that day. As this evidence was not served within the timeframe requirements in accordance with Rule 3.15 of the Rules of Procedure, I advised the parties that I would also reserve judgment on acceptance of this evidence as well.

As per Rule 2.3 of the Rules of Procedure, claims made in an Application must be related to each other, and I have the discretion to sever and dismiss unrelated claims. As such, the parties were advised that any unrelated issues would be severed and this hearing would primarily address the most significant and pressing, related issues. The Tenant would be at liberty to apply for any other claims under a new and separate Application.

Amongst the Tenant's submissions, it appeared as if he was seeking additional claims and increased monetary compensation; however, J.A. advised that the Tenant's Application was not amended as per Rule 4 of the Rules of Procedure. As such, she was advised that the Tenant's claims may be limited to what was on the original Application.

Based on these issues and J.A.'s current health status, she advised that she wished to have the Application withdrawn in full so that the Tenant may reapply with a more fulsome and complete Application, with service of documents that would comply with the *Act* and Rules of Procedure.

I find that the Tenant's request to withdraw the Application in full does not prejudice the Landlord. Therefore, the Tenant's request to withdraw the Application in full was granted. I note this decision does not extend any applicable timelines under the *Act*.

Conclusion

The Tenant has withdrawn his Application in full. The Tenant is at liberty to reapply on these issues.

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: November 7, 2019

Residential Tenancy Branch