



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WEST FRASER HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

MNDCL, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The "female tenant" did not attend this hearing, which lasted approximately 22 minutes. The landlord's agent ("landlord") and the male tenant ("tenant") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that she was the vice president for property management, employed by the landlord company named in this application, and that she had permission to speak on its behalf. The tenant confirmed that he had permission to represent the female tenant at this hearing (collectively "tenants").

The tenant confirmed receipt of the landlord's application for dispute resolution hearing package and the landlord confirmed receipt of the tenants' evidence package. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenants were duly served with the landlord's application and the landlord was duly served with the tenants' evidence package.

Preliminary Issue – Inappropriate Behaviour by the Landlord during the Hearing

Rule 6.10 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* states the following:

6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing

Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.

Throughout the conference, the landlord interrupted me, talked at the same time as me, argued with me, and yelled at me. I cautioned the landlord multiple times to stop this behaviour, but she continued. However, I allowed the landlord to attend the full hearing in order to provide her with an opportunity to present her application.

I caution the landlord to not engage in the same inappropriate and disruptive behaviour at any future hearings at the RTB, as this behaviour will not be tolerated, and she may be excluded from future hearings. In that event, a decision will be made in the absence of the landlord.

Background and Evidence

Both parties agreed to the following facts. Both parties attended a “previous hearing” at the Residential Tenancy Branch (“RTB”) after which a decision, dated October 29, 2019 (“previous decision”) was issued by another Arbitrator. The file number for that previous decision appears on the front page of this decision. The tenants received double the value of their security and pet damage deposits of \$825.00 each, totalling \$3,300.00, plus the \$100.00 application filing fee, for a grand total of \$3,400.00. The landlord’s payment of \$1,400.00 to the tenants was offset against this amount of \$3,400.00. The tenants were provided with a monetary order for \$2,000.00 by the previous Arbitrator.

The landlord seeks \$1,900.00 plus the \$100.00 application filing fee. The landlord claimed that she was disputing the previous decision because she disagreed that she owed the tenants double the security and pet damage deposits. She said that she already paid \$1,400.00 to the tenants for the deposits and she retained \$250.00 for damages caused by them. The landlord claimed that she also paid \$575.00, so she only owed \$1,075.00.

Analysis

I notified the landlord that she was applying to dispute a previous decision by filing a new application. The landlord’s references to the \$1,400.00 paid is in the previous decision. The landlord’s reference to the \$250.00 retained for damages was contained

in the previous decision. The previous decision awarded the tenants double the value of their deposits, while offsetting the landlord's payment of \$1,400.00. The landlord repeatedly stated that she disagreed that she owed the tenants \$2,000.00 and that is why she had not paid them that amount. I repeatedly asked the landlord whether she was applying for any other orders at this hearing and she said that she was not.

I notified the landlord that I could not rehear the previous application because it was already decided. I informed her that the previous decision was legal, final and binding. I notified her that she had a chance to review that decision at the RTB under section 79 of the *Act*, and potentially obtain a new hearing in order to reargue that application, and she chose not to do so. The landlord became upset and claimed that she was told by information officers at the RTB that she could file an application if she disagreed with the previous decision, and that they never told her she could apply for a review.

The landlord's application for \$1,900.00 is *res judicata*, meaning it has already been decided at the previous hearing. Since the landlord was unsuccessful in this application, I find that the landlord is not entitled to recover the \$100.00 filing fee from the tenants.

Conclusion

The landlord's application for \$1,900.00 is dismissed without leave to reapply as it is *res judicata*, since it has already been decided in a previous hearing decision.

The landlord's application to recover the \$100.00 filing fee 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: January 24, 2020

Residential Tenancy Branch