



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding San Stel Investments
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, MNDCT, FFT

Introduction

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

- a Monetary Order for damage or compensation under the *Act*, pursuant to section 67;
- an Order directing the landlord to comply with the *Act*, regulation or tenancy agreement, pursuant to section 62; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

Tenant J.E.L., landlord R.K. and owner K.S. attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Preliminary Issue- Standing

Both parties agree that tenant J.E.L. sold her manufactured home and moved out of the manufactured home park on December 27, 2019.

I informed tenant J.E.L. in the hearing that since there is no longer and landlord tenant relationship between the parties, she does not have standing to seek an Order directing the landlord to comply with the *Act*. The tenants' application for an Order directing the landlord to comply with the *Act*, regulation or tenancy agreement is dismissed without leave to reapply.

Preliminary Issue- Tenant's Monetary Claim

The tenant testified that when she originally attempted to make her application for dispute resolution the system would not allow her to write in the amount of her monetary claim and so she filed a revised application for dispute resolution stating a monetary claim for \$15,000.00, on December 16, 2019.

The landlord testified that the Notice of Hearing document he received from the tenant claimed \$0.01 and the tenant's application for dispute resolution claimed \$10,000.00.

The Residential Tenancy Branch's DMS system shows a claim of \$0.01 and the tenants' revised application for dispute resolution entered into evidence is silent on the amount of the tenants' monetary claim. The audit notes for this file show that no amendment was filed and does not mention the amount of the tenants' monetary claim.

I find that it would be prejudicial to the landlord to hear the tenants' monetary claim for \$15,000.00 on this day as the landlord could not reasonably have been expected to answer the tenants' monetary claims that were not clearly set out. I note that the tenants did not enter into evidence a Monetary Worksheet setting out what amount they are seeking for each item claimed.

I also find that it is not clear as to why the tenants' claim for \$15,000.00 was not recorded in the Residential Tenancy Branch's DMS system or in any other documentation entered into evidence. As I cannot rule out either human error or system error, I find that procedural fairness dictates that the tenants should be permitted to re-file their claim. I dismiss the tenants' application for a monetary order for damage and compensation under the *Act*, with leave to reapply.

Conclusion

The tenants' application for a monetary order for damage and compensation under the *Act* is dismissed with leave to reapply.

The remainder of the tenants' application 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 *Manufactured Home Park Tenancy Act*.

Dated: February 20, 2020

Residential Tenancy Branch