



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, OPR, MNRL-S

Introduction and Conclusion

This hearing convened as a result of a Landlord's Application for Dispute Resolution, filed on January 3, 2020, wherein the Landlord sought an Order of Possession and monetary compensation from the Tenant based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, authority to retain the Tenants' security deposit and recovery of the filing fee. By amendment dated January 15, 2020, the Landlord sought to increase her monetary claim to \$9,500.00 for damages to the rental unit roof and window.

The hearing of the Landlord's Application was scheduled for teleconference at 11:00 a.m. on March 5, 2020. Both parties called into the hearing and were provided the opportunity to present their evidence orally and in written and documentary form and to make submissions to me.

During the hearing the parties confirmed that the Tenant had vacated the rental unit as of February 29, 2020. The parties also confirmed the Tenant paid all outstanding rent prior to vacating the rental unit. Consequently, the Landlord's request for an Order of Possession and Monetary compensation based on the Notice was no longer required.

As noted, by Amendment filed January 15, 2020, the Landlord sought additional monetary compensation for damage to the rental unit. On February 20, 2020, 13 days prior to the hearing, the Landlord submitted a further Amendment seeking the sum of \$10,500.00; she also provided a further 67 pages of documentary evidence in support of her increased monetary claim.

Hearings before the Residential Tenancy Branch are governed by the *Residential Tenancy Branch Rules of Procedure*. At all times an Arbitrator is guided by Rule 1.1

which provides that Arbitrators must ensure a fair, efficient and consistent process for resolving disputes for landlords and tenants.

Residential Tenancy Branch Rule of Procedure 2.3 provides that claims made in an Application for Dispute Resolution must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

Hearings before the Residential Tenancy Branch are scheduled on a priority basis. Time sensitive matters such as a tenant's request for emergency repairs or the validity of a notice to end tenancy are given priority over monetary claims. In this case, the parties were given a priority hearing date as the Landlord sought to end the tenancy for non-payment of rent; the Landlord's monetary claim for damage to the rental unit is not related, as such **I dismiss, with leave to reapply, the Landlord's claim for monetary compensation from the Tenant.**

I also note that the Landlord's February 20, 2020 evidence submission was filed late. Rules 3.1 and 3.14 of the *Residential Tenancy Branch Rules of Procedure* provide as follows:

3.1 Documents that must be served

The applicant must, within 3 days of the hearing package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the application for dispute resolution;
- b) the notice of dispute resolution proceeding letter provided to the applicant by the Residential Tenancy Branch;
- c) the dispute resolution proceeding information package provided by the Residential Tenancy Branch;
- d) a detailed calculation of any monetary claim being made;
- e) a copy of the Notice to End Tenancy, if the applicant seeks an order of possession or to cancel a Notice to End Tenancy; and
- f) any other evidence, including evidence submitted to the Residential Tenancy Branch with the application for dispute resolution, in accordance with Rule 2.5 [*Documents that must be submitted with an application for dispute resolution*].

3.14 Evidence not submitted at the time of Application for Dispute Resolution

Documentary and digital evidence that is intended to be relied on at the hearing must be received by the respondent and the Residential Tenancy Branch not less than 14 days before the hearing.

Additionally, the parties confirmed they had not yet participated in a move out condition inspection. The Landlord confirmed that the Tenant provided a post office box as his forwarding address, which he sent to her by email.

During the hearing the parties agreed to the following:

1. The parties will participate in a move out condition inspection on Saturday March 7, 2020 at 12:00 noon.
2. The Tenant will provide the Landlord with a forwarding address on Saturday March 7, 2020, following which the Landlord will have 15 days in which to apply to the Residential Tenancy Branch for monetary compensation and authority to retain the Tenant's security deposit.

The terms of their agreement is recorded in this my Decision pursuant to section 63 of the *Residential Tenancy Act* and Rule 8.4 of the *Residential Tenancy Branch Rules of Procedure*.

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: March 05, 2020

Residential Tenancy Branch