



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, MNDL, MNDCL, MNRL, OPE, CNC, OLC, PSF, RP, RR

Introduction

This hearing dealt with cross applications pursuant to the *Residential Tenancy Act* (the *Act*)

The landlord applied for:

- an Order of Possession pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenant applied for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 33;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Preliminary Issues

Both parties attended the hearing and were given a full opportunity to be heard. The parties have a lengthy history of disputes dating back to July 2019. This matter was previously heard by another Arbitrator in September 2019. The tenant filed a judicial review of the matter. The parties were in Supreme Court in January 2020 and by consent, had these matters sent back to the Branch for a new hearing on this date. In the interim the parties each filed a new application and had a hearing on March 27, 2020 whereby the landlord was granted an order of possession and the tenants' application was dismissed in its entirety without leave to reapply.

In terms of this hearing, both parties were given detailed instructions when they were given their Notice of Dispute Resolution Hearing document. The document reads as follows:

"The arbitrator will NOT be considering any of the evidence that was previously submitted. Evidence is required in support or defense of a claim made through an application for dispute resolution. Parties to the dispute are permitted to submit further relevant evidence and any existing evidence must be re-served and re-submitted to the Residential Tenancy Branch. Parties submitting/exchanging evidence are to do so in accordance with the Residential Tenancy Branch Rules of Procedure."

The landlord did not submit any of his documentation for this hearing. The tenant submitted some documentation one day before the hearing, however, it was submitted in a format that was unreadable or viewable. Regardless, neither party provided evidence that they had served the other or submitted their evidence to the Branch in accordance with the Residential Tenancy Branch Rules of Procedure. Despite the deficiencies in each party's application, they advised me of the following.

At the outset of the hearing the landlord advised that he has already obtained an order of possession in a separate hearing to end this tenancy but due to the COVID-19 situation, he has been unable to have the order executed. The landlord stated on several occasions "what are we doing here today?" As the landlord no longer requires an order of possession, I dismiss the tenancy issue from both parties' applications. The landlord testified that he is willing to try to resolve the matter with the tenant if she would be willing to pay all outstanding rent, however; the tenant stated that she is prepared to fight this all the way. The landlord applied for damages to the unit, however he is

premature in that application as the tenant still resides in the unit, accordingly; I dismiss the landlords monetary claim with leave to reapply.

The tenant also stated that she questioned why the matter was being heard on this day. The tenant testified that many of the issues are outside of the Residential Tenancy Branch's authority. The tenant testified that she plans on filing for a judicial review of the previous Arbitrators decision and advised that all issues should be heard in the Supreme Court. The balance of the tenant's application is for items if the tenancy were to continue, but as the tenancy has been ordered to end, the remainder of the tenant's application is dismissed without leave to reapply.

The parties were advised of my final findings and both concurred with them.

Conclusion

The landlords monetary claim is dismissed with leave to reapply. The tenant's application is dismissed in its entirety 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: April 17, 2020

Residential Tenancy Branch