



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, LRE, FFT

Introduction

The tenants had sought the following relief under the *Residential Tenancy Act* (“Act”):

1. an order cancelling a One Month to End Tenancy for Cause, pursuant to section 47 of the Act;
2. an order suspending or restricting the landlord’s right to enter the rental unit, pursuant to section 70 of the Act; and,
3. recovery of the filing fee of \$100.00 pursuant to section 72 of the Act.

The tenants applied for dispute resolution on February 21, 2020 and a dispute resolution hearing was held, by way of telephone conference, on April 28, 2020. The tenant (B.M.) attended the hearing, while the landlord did not.

The tenant testified that he served the Notice of Dispute Resolution Proceeding package on the landlord by Canada Post registered mail (copies of receipts were submitted), and which indicated that the landlord received the package.

I find that the landlord was served in compliance with section 89 of the Act.

In reviewing the names of the applicants, I confirmed that the last-named applicant was the tenant’s daughter, a minor, and not a party to the tenancy agreement. As such, I have amended the application and removed her name from the dispute.

Preliminary Issue 1: Issues Rendered Moot

At the start of the hearing, the tenant stated that he no longer resided in the rental unit and in fact had moved out on April 15, 2020. As such, the three matters for which he initially applied are moot. There is, in other words, no legal dispute to be resolved. Therefore, the tenants' application is dismissed without leave to reapply.

Preliminary Issue 2: "Amended" Claim for Compensation

The tenants submitted a letter outlining compensation that they had sought for various matters, including internet costs and expenses related to a vandalized vehicle that was damaged while parked on their former landlord's property. Receipts were submitted. I noted that the letter and the additional evidence were submitted into the Dispute Management System on the afternoon of April 27 and the morning of April 28, 2020. The tenant explained that he had submitted these documents much earlier, but that they must have showed up only now, on my end.

I further note that the tenants did not submit a completed Amendment to an Application for Dispute Resolution form at any point, as is required by Rule 4.1 of the *Rules of Procedure*, under the Act. The tenant explained that he was unaware of this requirement.

I asked the tenant whether he had provided a copy of this letter seeking compensation to the respondent landlords at any time, to which he said "no," he did not. The tenant explained that the landlord was aware (that is, "he knew") that the tenants were seeking these costs during a conversation, but he confirmed that he had not provided any notice to the landlord that he would be seeking compensation in today's hearing.

While the tenants sought to amend their application to include compensation, having no evidence that the landlord was actually served any documentation that the tenants would be essentially amending their application to include a claim for compensation, I find that I am unable to amend the application. As such, I am not in a position to proceed with hearing the particulars of the requested claim for compensation. It would be a breach of procedural fairness for me to consider a claim when there is insufficient evidence that the respondent was made aware of the claim.

As explained to the tenant, he retains the right to apply for dispute resolution claiming compensation, and that he has two years from the date that the tenancy ended to do so.

Conclusion

I dismiss the tenants' application without leave to reapply.

I make no findings of fact or law in respect of the tenants' potential claim for compensation.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: April 28, 2020

Residential Tenancy Branch