



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Warrington PCI Management and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes For the tenant: MNDC, FF
 For the landlord: MNR, FF

Introduction, Preliminary and Procedural Matters-

This hearing was convened as the result of the cross applications of the parties for dispute resolution seeking remedy under the Residential Tenancy Act (Act).

The tenant applied for the following:

- compensation for a monetary loss or other money owed; and
- to recover the cost of the filing fee.

The landlord applied for the following:

- a monetary order for unpaid rent; and
- to recover the cost of the filing fee.

The tenant and the landlord attended the hearing. The hearing process was explained to the parties and an opportunity was given to ask questions about the hearing process.

Thereafter, preliminary matters were discussed prior a hearing on the merits of either application.

Tenant's application –

At the outset of the hearing, the tenant was advised that his application for monetary compensation was being refused, pursuant to section 59(5)(c) of the Act, because his application for dispute resolution did not provide sufficient particulars of his claim for compensation, as is required by section 59(2)(b) of the Act.

Further, Rule 2.5 of the Residential Tenancy Branch Rules of Procedure (Rules) states that a detailed calculation of any monetary claim be submitted at the same time as the application for dispute resolution.

In this case, the tenant wrote in his application a description of his monetary claim; however, the total of that claim was \$112,500, which far exceeded monetary limit for claims under the *Small Claims Act*, in this case, \$35,000.

The tenant was advised that he must provided particulars of his claim, which includes a breakdown up to, but not surpassing, \$35,000.

I find that proceeding with the tenant's claim at this hearing would be prejudicial to the landlord, as the absence of particulars that set out how the tenant arrived at the amount being claimed, makes it difficult, if not impossible, for the landlord to adequately prepare a response to the tenant's claim. I note the tenant applied on January 15, 2020, which provided significant time for the tenant to comply with Rule 2.5, however, the tenant failed to do so.

Both parties have the right to a fair hearing and the respondent is entitled to know the full particulars of the claim made against them at the time the applicant submits their application. Given the above, the tenant is granted liberty to reapply but is reminded to provide full particulars of his monetary claim. The tenant may include any additional pages to set out the details of his dispute in any future application, as required.

Landlord's application –

The landlord's evidence showed that they received a monetary order against this tenant in a previous dispute resolution hearing, in the amount of \$11,502.00. That monetary order was dated December 30, 2019. The evidence showed that the landlord has attempted to enforce this monetary order through the Provincial Court of British Columbia (Small Claims Court).

The landlord's application showed, and the landlord confirmed, that their application was for the purpose of offsetting any monetary award which may be granted to the tenant in the present matter with the landlord's monetary order previously granted.

I informed the landlord that while the Provincial Court has may offset monetary orders granted by the Residential Tenancy Branch (RTB), I am unable in the present case to offset a monetary award previously granted in another dispute resolution hearing.

As such, I refused the application of the landlord, under section 59(5)(a), as I find the application does not disclose a dispute that may be determined under this part.

As I have refused both applications, I do not award either party recovery of their filing fee.

Conclusion

I have refused the tenant's application pursuant to 59(5)(c) and 59(2)(b) of the Act.

I have refused the landlord's application pursuant to 59(5)(a) of the Act.

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: June 9, 2020

Residential Tenancy Branch