



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPT, FFT

Introduction

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

- an order of possession to the rental unit, pursuant to section 54; and
- authorization to recover the filing fee for this application, pursuant to section 72.

"Tenant FM" did not attend this hearing, which lasted approximately 10 minutes. The landlord, the landlord's lawyer and tenant GA ("tenant") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord's lawyer confirmed that she had permission to speak on behalf of the landlord.

The landlord's lawyer confirmed receipt of the tenants' application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenants' application.

At the outset of the hearing, the tenant stated that he did not require an order of possession because he already had possession of the rental unit and he was moving out at the end of the month. I notified him that this portion of the tenants' application was dismissed without leave to reapply.

The tenant stated that he wanted his \$100.00 filing fee returned by the landlord because he had to file this application since the landlord made the rental unit unliveable for him. The landlord's lawyer did not have instructions in this regard. The landlord claimed that she could not hear what anyone was saying in the hearing, except when her name was announced. Yet, she was able to hear when the tenant stated that the landlord made

the rental unit unliveable for him. The landlord's lawyer stated that she was retained within the last week and did not realize that the landlord had hearing problems.

A filing fee is a discretionary award usually awarded to a party after a full hearing on the merits where the party is successful. As I was not required to make a decision on the merits after a full hearing regarding this application, I decline to award the \$100.00 filing fee to the tenants. Accordingly, this claim is dismissed without leave to reapply.

The landlord is cautioned to obtain appropriate hearing assistance prior to any future hearings at the Residential Tenancy Branch ("RTB"), so that the landlord and any of her representatives can fully participate in the hearing. The tenant claimed that he would be filing a future application for monetary compensation against the landlord.

Conclusion

The tenants' entire 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 *Residential Tenancy Act*.

Dated: June 25, 2020

Residential Tenancy Branch