



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, MNDC-S, FF

Introduction, Preliminary and Procedural Matters-

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (Act) for:

- an order of possession of the rental unit pursuant to a Two Month Notice to End Tenancy for Landlord's Use of Property (Notice) issued to the tenant;
- compensation for a monetary loss or other money owed; and
- recovery of the filing fee.

The landlord's agent (agent) attended the hearing; however, the tenant did not attend.

The landlord stated he served the tenant with their application for dispute resolution and Notice of Hearing by email on June 16, 2020. Under the Director's Order in effect at the time, parties were allowed to serve their application and Notice of Hearing by email to the email address the parties routinely used to correspond about tenancy matters. The documents are deemed received three days later, absent evidence to the contrary.

I accept the agent's undisputed evidence that the tenant was served notice of this hearing in a manner complying with the Director's Order and the hearing proceeded in the tenant's absence.

The agent was affirmed and provided testimony at the hearing.

The agent confirmed that the tenant vacated the rental unit on July 1, 2020; however, one of the occupants stayed behind.

The agent said that since then, the occupant finally vacated the rental unit on or about July 11, 2020, leaving behind his vehicle.

I have therefore amended the landlord's application to exclude a request for an order of possession for the rental unit.

I note further that Rule 2.3 of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) authorizes me to dismiss unrelated disputes contained in a single application.

In this circumstance the landlord indicated a monetary claim, in addition to the most urgent matter of enforcement of the 2 Month Notice.

I find that the monetary claim is not sufficiently related to the primary issue to be determined during this proceeding. I therefore only considered the landlord's request to enforce the 2 Month Notice and recovery of the filing fee at this proceeding.

The balance of the landlord's application, their monetary claim, is dismissed, with leave to re-apply.

Analysis and Conclusion

The agent was informed that as the tenant and all occupants had fully vacated, it was not necessary to grant an order of possession of the rental unit and they, in turn, would not require the services of a bailiff.

Further, the agent said the occupant requested some leniency in coming back to the rental unit to retrieve his vehicle, as it did not start at the time.

While the agent initially still requested an order of possession, that was to ensure he could have a bailiff attend the property to have the vehicle towed.

The agent was informed of the landlord's obligation for abandoned personal property left at the rental unit, and that if the occupant failed to return to the rental unit to collect his vehicle, the landlord could treat the vehicle as abandoned and have it removed. The agent was further informed of his obligation of the treatment of abandoned personal property, under the Residential Tenancy Regulation.

As to the landlord's request for recovery of their filing fee, I note that the effective end of tenancy date listed on the Notice issued to the tenant was June 30, 2020.

There was no evidence that the tenant had filed an application in dispute of the Notice and had until June 30, 2020 to vacate the rental unit. At the time of the landlord's application on June 15, 2020, it was not necessary to file an application as the effective end of tenancy date was later than the landlord's application.

As the application was premature at that point, I therefore decline to award the landlord recovery of their filing fee.

Due to the above, I dismiss the landlord's request for recovery of the filing fee.

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: July 13, 2020

Residential Tenancy Branch