



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNR, LRE, CNL, MNDCT, FFT**

Introduction

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

- cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice") pursuant to section 46;
- An order suspending or setting conditions on the landlord's right to enter the rental unit pursuant to section 70
- cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) pursuant to section 49;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover their filing fee from the landlords pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The tenant CS (the "tenant") attended on behalf of both named applicants. The landlord LR (the "landlord") attended on behalf of the named respondents.

The tenant initially expressed confusion with the attendance of LR, despite the fact that they had named them as a respondent on their own application. LR explained that they are a family member and agent of the other named landlord who holds title to the property.

As both parties were present service was confirmed. The parties each confirmed receipt of the respective materials. Based on the testimonies I find that each party was served with the materials in accordance with sections 88 and 89 of the *Act*.

At the end of the hearing the tenant testified that they had moved out of the rental unit and withdrew the portions of their application pertaining to an ongoing tenancy.

Issue(s) to be Decided

Is the tenant entitled to a monetary award as claimed?

Is the tenant entitled to recover their filing fee from the landlord?

Background and Evidence

The parties submit that this tenancy began approximately 5 years ago and that the monthly rent at the end of the tenancy was \$2,100.00. The tenant submits that the landlord failed to assist them in applying for Covid rental subsidy. The tenant calculates that they could have obtained \$500.00 monthly from the date the subsidy was available which resulting in a \$2,000.00 loss.

Analysis

Pursuant to Rule of Procedure 6.6 the applicant bears the onus to prove their case on a balance of probabilities.

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

In the present case the tenant claims that the landlord did not assist them in completing an application for Covid rental subsidy. The tenant provided little evidence that they had commenced an application or that the landlord, through their action or inaction, have prevented the application from being completed. The tenant's evidence consisted solely of testimony without documentary evidence in support. I find that testimony, disputed by the other party, and without collaborating documentary evidence to be insufficient to meet the evidentiary onus. As such, I dismiss the tenants' monetary claim.

As the tenants were not successful in their application I decline to issue an order allowing them to recover their filing fee.

Conclusion

The portion of the tenants' application disputing the Notices to End Tenancy and seeking an order placing restrictions on the landlord's right to enter are withdrawn and dismissed without leave to reapply.

The balance of the tenants' 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: August 7, 2020

Residential Tenancy Branch