



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNDCL-S FFL

Introduction

This hearing was convened as a result of the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act). The landlord applied for an order of possession based on unpaid rent, for a monetary order in the amount of \$11,800.00 for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, specifically damages to the rental unit, to offset any amount owing from the tenant's security deposit and/or pet damage deposit, and to recover the cost of the filing fee.

The landlord and their spouse JC (landlords) appeared at the teleconference hearing. The hearing process was explained to the landlords and the landlords were affirmed. The landlords were also provided the opportunity to ask questions. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matters

At the outset of the hearing, the landlords confirmed that they were no longer seeking an order of possession as the tenant vacated on or about August 9, 2020. The landlords were also advised that the landlord's application was being refused, pursuant to section 59(5)(c) of the Act because their application for dispute resolution did not provide sufficient particulars of their claim for compensation, as is required by section 59(2)(b) of the Act. For example, the Monetary Order Worksheet (worksheet) amounts were left blank and the only supporting evidence with specific amounts was submitted late in evidence and was excluded in full as the landlord did not serve the tenant in accordance with the Residential Tenancy Branch (RTB) Rules of Procedure (Rules).

I find that proceeding with the landlord's monetary claim at this hearing would be prejudicial to the tenant, as the absence of particulars that set out how the landlord

arrived at the amount of \$11,800.00 makes it difficult, if not impossible, for the tenant to adequately prepare a response to the landlord's claim. In addition, at the time the landlord filed their application, the claim for damages would have been premature as the tenant was still occupying the rental unit to the best of the landlord's knowledge.

I also note that the landlords testified that the tenant has not provided the landlords with their written forwarding address, and as such, I find I do not have to deal with the security deposit or pet damage deposit in this decision as the tenant has not yet served the landlords with their written forwarding address as required by section 38 of the Act.

The landlords are at liberty to reapply; however, are reminded to provide a detailed breakdown of their monetary claim and are encouraged to use the Monetary Worksheet available at www.rto.gov.bc.ca when submitting a monetary claim. The tenants may include any additional pages to set out the details of their dispute in their application, as required. As the monetary component of the landlord's application did not proceed, and the landlords no longer require an order of possession, I do not grant the filing fee under section 72 of the Act.

Conclusion

The landlords' application has been refused pursuant to sections 59(5)(c) and 59(2)(b) of the Act. The landlords are at liberty to reapply for their monetary claim; however, are encouraged to provide a detailed breakdown of any future monetary claim at the time an application is submitted. Failure to do so could result in the application being refused again with leave to reapply not being granted.

This decision will be emailed to the parties at the email addresses provided by the landlords for both parties during the hearing.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: September 8, 2020

Residential Tenancy Branch