



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, MNDCT, FFT

Introduction

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

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and arguments. The parties acknowledged receipt of evidence submitted by the other.

Preliminary Issue #1- Severance

Residential Tenancy Branch (RTB) Rule of Procedure 2.3 states that claims made in an Application for Dispute Resolution must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

At the outset of the hearing NR testified that the primary issue to address is the tenancy, hence the reason for applying to have the landlord comply with the *Act*, regulation, or tenancy agreement. NR testified that "the monetary claim can wait". It is my determination that the priority claim regarding the continuation or end of this tenancy is not sufficiently related to the tenant's monetary claim to warrant that they be heard

together. The parties were given a priority hearing date to address the question of the validity of the tenancy.

The tenant's monetary claim is unrelated in that the basis for it rests largely on facts not germane to the question of whether there are facts which establish the grounds for ending this tenancy. I exercise my discretion to dismiss the tenant's monetary claims with leave to reapply.

Settlement Terms

After the parties were advised that this hearing would focus on the issue of the tenancy and that the monetary claim could be heard at another time, the parties did the following.

Section 63 of the *Residential Tenancy Act* provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a resolution. Specifically, it was agreed as follows;

1. Both parties agree that the tenants will move out by no later than 9:00 a.m. April 17, 2021; and
2. The landlord will not pursue any monetary claims regarding the tenancy ending early or any costs incurred to find a new tenant.

Pursuant to this agreement the landlord will be given an order of possession to reflect condition #1 of this agreement. Should it be necessary, this order may be filed in the Supreme Court and enforced as an order of that Court.

The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the nature of this full and final settlement of this matter.

The filing fee is a discretionary award usually issued by an Arbitrator after a party is fully successful after a full hearing on the merits of the application. As I was not required to make a decision regarding this application and both parties agreed to voluntarily settle this matter, I decline to award the recovery of the filing fee to the applicants.

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: April 16, 2021

Residential Tenancy Branch