



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP

Introduction

This hearing was convened in response to an application by the Tenant (the “Applicant”) for an order for emergency repairs pursuant to section 33 of the *Residential Tenancy Act* (the “Act”).

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Applicant entitled to an order for emergency repairs?

Background and Evidence

The Applicant states that the Respondent turned off the electricity on April 12, 2021 and seeks an order that the Respondent restore the electricity.

The Respondent argues as a preliminary matter that the Applicant is not under a tenancy agreement and that the dispute is not under the jurisdiction of the Act. The Respondent states that no rents have been paid and no security deposit has been collected. The Respondent states that its legal counsel has been instructed to start proceedings at the Supreme Court in relation to the Applicant’s occupation of the unit. The Applicant states that rents have been paid and a security deposit was collected by the Respondent. The submissions in relation to jurisdiction were not completed when the allotted time for the hearing expired. Immediately before the expiry of the allotted time the Parties gave undisputed evidence that the Respondent did not receive the

Applicant's evidence until the morning of the hearing. The Respondent sought an adjournment of the matter and agreed to restore the electricity to the unit.

Analysis

Section 62(4) of the Act provides that the director may dismiss all or part of an application for dispute resolution if there are no reasonable grounds for the application or part. Rule 2.5 of the Residential Tenancy Branch (the "RTB") Rules of Procedure (the "Rules") provides that an applicant should submit evidence to be relied on in the proceedings with their application. Rule 3.14 of the RTB Rules provides that evidence to be relied upon and not submitted at the time of the application must be received by the respondent and the RTB not less than 14 days before the hearing.

Although the Parties did not complete their submissions on the issue of jurisdiction, as the Respondent agreed to restore the electricity to the unit, whether on an interim basis or permanently I consider that there are no longer any grounds for the emergency claim to restore the electricity. Further the Applicant did not provide its evidence to the Respondent until the day of the hearing and I consider that the Landlord did not have sufficient time to respond to this evidence. Although it had been indicated at the end of the hearing that the matter would be adjourned, after further consideration and for the above reasons, I dismiss the application. As a tenant's rights under a tenancy agreement are ongoing, should the Respondent fail to act as agreed or should the Respondent again disconnect the electricity, the Applicant has leave to reapply and the matter of jurisdiction may then be considered.

Conclusion

The application is dismissed with leave to reapply.

This decision is made on authority delegated to me by the Director of the RTB under Section 9.1(1) of the Act.

Dated: May 28, 2021

Residential Tenancy Branch