



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR MNDCT OLC FFT

Introduction

The tenant sought various relief under the *Residential Tenancy Act* (“Act”).

The parties, including a family member assisting the landlord, attended the hearing on May 27, 2021 at 11:00 AM.

Preliminary Issue 1: Service of Tenant’s Evidence

The tenant stated that they had served their evidence on the landlord by way of registered mail and in-person (to a third party). The landlord’s daughter (hereafter the “landlord”) testified that they only received the Notice of Dispute Resolution Proceeding, and nothing else. The tenant explained that everything, including the evidence, was included in the package that was mailed to the parties.

When two parties to a dispute provide equally reasonable accounts of events or circumstances related to a dispute, the party making the claim has the burden to provide sufficient evidence over and above their testimony to establish their claim. In this case, I find that the tenant has failed to provide any evidence that anything else, other than the Notice of Dispute Resolution Proceeding, was served on the landlord.

Rule 3.5 of the *Rules of Procedure* requires that

At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure.

Based on the evidence before, I am not satisfied that the respondent was served with the tenant's evidence. For this reason, I will not accept or consider the tenant's documentary evidence in this dispute.

Preliminary Issue 2: Tenancy Has Ended

The parties confirmed that the tenant vacated the rental unit at the end of April 2021. As such, two of the four issues submitted for resolution in the tenant's application, namely (1) a dispute of a 10 Day Notice to End Tenancy for Unpaid Rent, and (2) a request for an order of compliance under section 62 of the Act, are now moot. They will, accordingly, be dismissed without leave to reapply.

The remaining issues are related to a claim for compensation and a claim for recovery of the application filing fee.

Issues

1. Is the tenant entitled to compensation in the amount of \$10,000?
2. Is the tenant entitled to recovery of the application filing fee of \$100?

Background and Evidence

Relevant evidence, complying with the *Rules of Procedure*, was carefully considered in reaching this decision. Only relevant oral and documentary evidence needed to resolve the specific issues of this dispute, and to explain the decision, is reproduced below.

The tenant seeks \$10,000 in compensation from their now-former landlord. The tenant's application included the following particulars regarding this claim (reproduced as written):

because my owner and his relative start giving me threat that they will hit me and kill me i also complain to 911 and [name redacted] was threatening me when Police was there and Police told me to ignore him and when Police left and i came back to pick my food he hit me and also hit my car i call 911 again but nothing happened and because of Rats and too many ants inside the house i can not cook and they also break my iphone XR so i have to buy new phone and i could not go to work because they

In the hearing, I asked the tenant why he was seeking \$10,000 from the landlord. He said that it was because the landlord “threw his stuff” outside. It appears that the landlord forcibly evicted the tenant, though the landlord denies this. In the property that was thrown outside was a missing diamond ring valued at \$2,200, a TV, a projector, and a broken water fountain. The property was outside for two days. In addition, the tenant testified that he was without electricity and a working fridge for a period of time. He spoke of additional stress caused by the landlord’s actions and remarked that he had lost his job because he did not have a place to sleep.

The landlord testified that they are “not too sure why he’s making these claims” and that \$10,000 is “a huge amount.” According to the landlord, the tenant did not want to pay rent because he was instead spending money on dealing with cleaning bugs and pests. They told the tenant that he could just leave, without paying the rent. The landlord wanted the tenant to leave and for the tenancy to end. Further, the landlord argued that there is no evidence to support any of the tenant’s claims. They denied taking any actions that might have led to the tenant’s claim, and they denied throwing the tenant’s property out of the house. In the end, they said that it was the tenant who was being a nuisance. It was also unclear to them as to why the tenant claims he had no place to sleep when he in fact was still in the rental unit.

Analysis

Section 7 of the Act states that if a party does not comply with the Act, the regulations or a tenancy agreement, the non-complying party must compensate the other for damage or loss that results. Further, a party claiming compensation for damage or loss that results from the other's non-compliance must do whatever is reasonable to minimize the damage or loss.

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

In this dispute, while the tenant claims that the landlord did various things – primarily throwing his property out of the house, along with allegations of death threats, assault, and so forth, as described in the tenant’s application – there is no evidence to support the tenant’s claim. In short, without my having to consider the landlord’s testimony (and the landlord’s disputing of the tenant’s claim), I simply do not find that the tenant has proven that the landlord breached the Act, the regulations, or the tenancy agreement. Thus, no compensation may result.

Taking into consideration all the oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the tenant has not met the onus of proving his claim for \$10,000. Accordingly, I dismiss the tenant's application in its entirety without leave to reapply.

Conclusion

The tenant's application is hereby dismissed, without leave to reapply. This

decision is made on delegated authority under section 9.1(1) of the Act.

Dated: May 27, 2021

Residential Tenancy Branch