



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDCT

Introduction

On March 1, 2021, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting to cancel a 10 Notice to End Tenancy for Unpaid Rent. On May 17, 2021, the Tenant submitted an amendment to her Application to request a monetary order for compensation. The matter was set for a participatory hearing via conference call.

Preliminary Matter – Amendment and dismissal of issues

The Landlord, his witness and the Tenant S.E. attended the hearing.

The Tenant advised that the Tenants had moved out of the rental unit and the Landlord confirmed that he had possession of the rental unit. The Tenant confirmed that she wished to withdraw the matter in relation to the cancellation of the 10 Day Notice to End Tenancy. The Landlord agreed to the withdrawal.

The Tenant confirmed that she had originally amended her Application in order to be compensated for the missing television and power tools that were removed by the Landlord from the rental unit. The Tenant stated that she sent the amendment to the Landlord via registered mail on May 17, 2021.

The Landlord stated that he received the amendment “in the final hour” and was not prepared to proceed with the Tenants’ claim.

The *Residential Tenancy Branch Rules of Procedure* 4.7 states that a respondent may raise an objection at the hearing to an Amendment to an Application for Dispute Resolution on the ground that the respondent has not had sufficient time to respond to the amended application or to submit evidence in reply. The arbitrator will consider such objections and determine if the amendment would prejudice the other party or result in a breach of the principles of natural justice. The arbitrator may hear the application as amended, dismiss the application with or without leave to reapply, or adjourn the hearing to allow the respondent an opportunity to respond.

I find that the Tenants originally applied to cancel a Notice to End Tenancy and then applied for a non-related issue regarding monetary compensation, giving the Landlord just over two weeks to reply. I find that by dismissing the Tenants' Application with leave to reapply will allow the Tenants to provide proper notice and give the Landlord sufficient time to review the claim and to gather and submit evidence.

Preliminary Matter – Settlement Discussions

Section 63 of the Act allows an arbitrator to assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a Decision and include an Order. During this hearing, the parties discussed possible settlement terms; however, could not find consensus.

I encouraged the parties to exchange email addresses to continue respectful communication via written email to settle the terms of the tenancy.

Conclusion

Both parties agreed to the Tenants' withdrawal of their request to cancel the 10 Day Notice to End Tenancy for Unpaid Rent.

The Tenants' amendment to obtain a Monetary Order for compensation is dismissed with 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: June 07, 2021

Residential Tenancy Branch