



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes Tenant: CNL, FFT, OLC, MNDCT, RR
Landlord: OPL, FFL

Introduction

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

- cancellation of the Two Month Notice to End Tenancy, pursuant to section 49;
- a Monetary Order for damage or compensation under the *Act*, pursuant to section 67;
- an Order to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an Order for the landlord to comply with the *Act*, regulation, and/or the tenancy agreement, pursuant to section 62; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

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

- an Order of Possession for Landlord's Use of Property, pursuant to sections 49 and 55; and
- authorization to recover the filing fee for this application from the tenant, pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they are not recording this dispute resolution hearing.

Both parties confirmed their email addresses for service of this decision.

Both parties agree that the landlord personally served the tenant with the landlord's application for dispute resolution on March 25, 2021. I find that the tenant served the landlord in accordance with section 89 of the *Act*.

Both parties agree that the tenant served the landlord with the tenant's application for dispute resolution via registered mail. I find that the landlord was served in accordance with section 89 of the *Act*.

Preliminary Issue- Severance

Residential Tenancy Branch 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.

It is my determination that the priority claim regarding the Two Month Notice to End Tenancy for Landlord's Use of Property (the "Two Month Notice") and the continuation of this tenancy is not sufficiently related to any of the tenant's other claims to warrant that they be heard together. The parties were given a priority hearing date in order to address the question of the validity of the Two Month Notice.

The tenant's other claims are unrelated in that the basis for them rests largely on facts not germane to the question of whether there are facts which establish the grounds for ending this tenancy as set out in the Two Month Notice. I exercise my discretion to dismiss all of the tenant's claims with leave to reapply except cancellation of the Two Month Notice and recovery of the filing fee for this application.

Issues to be Decided

1. Is the tenant entitled to cancellation of the Two Month Notice to End Tenancy, pursuant to section 49 of the *Act*?
2. Is the tenant entitled to recover the filing fee for this application from the landlord, pursuant to section 72 of the *Act*?
3. Is the landlord entitled to an Order of Possession for Landlord's Use of Property, pursuant to sections 49 and 55 of the *Act*?
4. Is the landlord entitled to recover the filing fee for this application from the tenant, pursuant to section 72 of the *Act*?

Evidence/Analysis

While I have turned my mind to the documentary evidence and the testimony of both parties, not all details of their respective submissions and arguments are reproduced here. The relevant and important aspects of the tenant's and landlord's claims and my findings are set out below.

Both parties agreed to the following facts. This tenancy began on January 1, 2018 and is currently ongoing. Monthly rent in the amount of \$750.00 is payable on the first day of each month. A security deposit of \$375.00 was paid by the tenant to the landlord. A written tenancy agreement was signed by both parties and a copy was submitted for this application. The tenant rents a room in a house.

Both parties agree that the landlord personally served the tenant with the Two Month Notice on March 1, 2021. The tenant did not enter the Two Month Notice into evidence. The landlord only entered page ¼ of the Two Month Notice into evidence.

Section 52 of the *Act* states that in order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy,
 - (d.1) for a notice under section 45.1 [*tenant's notice: family violence or long-term care*], be accompanied by a statement made in accordance with section 45.2 [*confirmation of eligibility*], and
- (e) when given by a landlord, be in the approved form.

I require a complete copy of the Two Month Notice in order to determine whether it complies with section 52 of the *Act*. This is a requirement in order to determine whether an order of possession can be issued, pursuant to section 55 of the *Act*. The tenant and landlord had ample time to submit the complete Two Month Notice prior to the hearing, as the tenant filed their application on March 15, 2021 and the landlord filed his application on March 17, 2021 and this hearing was held on June 22, 2021.

Without a full copy of the Two Month Notice, I am not able to adjudicate this matter and therefore dismiss both the tenant's application to cancel the Two Month Notice and the landlord's application for an Order of Possession, with leave to reapply.

If the parties wish to pursue this matter further, they may file a new application, pay a new filing fee, provide a complete copy of the Two Month Notice and any evidence. As both parties' applications were dismissed, I find that neither party is entitled to recover their \$100.00 filing fees from the other, in accordance with section 72 of the *Act*.

Conclusion

The tenant's application to cancel the Two Month Notice is dismissed with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

The landlord's application for an Order of Possession for Landlord's Use of Property is dismissed with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

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 22, 2021

Residential Tenancy Branch