



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPU-DR, FFL, CNR, OLC, LRE, RP, MNDCT, FFT

Introduction

This hearing dealt with applications from both the landlord and the tenants under the *Residential Tenancy Act* (the *Act*). The landlord applied for:

- an order of possession for unpaid rent pursuant to section 55;
- authorization to recover his/her/their/its filing fee for this application from the tenant pursuant to section 72.

The tenant applied for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- 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;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- authorization to recover her filing fee for this application from the landlord pursuant to section 72.

The landlord did not attend. The tenant, C.H. attended the hearing via conference call and provided undisputed testimony. The other named tenants in the landlord's application did not attend and were unrepresented.

At the outset, the tenant, C.H. (the tenant) stated that the tenancy had ended when she vacated the rental unit in May and her co-tenants vacated in June 2021.

This matter was set for a conference call hearing at 11:00 a.m. on this date. I waited until 10 minutes past the start of the scheduled hearing time in order to enable both parties to connect with this teleconference hearing.

Rule 7 of the Rules of Procedure provides that:

7.1 Commencement of the dispute resolution hearing

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

7.2 Delay in the start of a hearing

In the event of a delay of a start of a conference call hearing, each party must stay available on the line to commence the hearing for 30 minutes after the time scheduled for the start of the hearing.

In the event of a delay of a face-to-face hearing, unless otherwise advised, the parties must remain available to commence the hearing at the hearing location for 30 minutes after the time scheduled for the start of the hearing.

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

7.4 Evidence must be presented

Evidence must be presented by the party who submitted it, or by the party's agent.

If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

The tenant confirmed in her direct testimony that she was not served with the landlord's notice of hearing package and was not aware of the landlord's application for dispute. On this basis, I find as the landlord has failed to serve the notice of hearing package to the tenant that the landlord's application is dismissed with leave to reapply at 27 minutes past the start of the scheduled hearing time. Leave to reapply is not an extension of any applicable limitation period. The merits of the landlord's claim were not addressed.

The tenant's application for dispute was clarified. The tenant had confirmed in her direct testimony that the tenancy had ended in June 2021 when she vacated the rental unit. As such, these portions of the tenant's requests are dismissed as the tenancy has ended:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;

During the hearing, discussions took place and the tenant stated that she wished to withdraw her remaining monetary request:

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67.

As such, no further action is required at this time.

The tenant's request for recovery of her filing fee is dismissed without leave to reapply due to her withdrawal of her requests.

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: August 13, 2021

Residential Tenancy Branch