



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFT, CNL-4M-MT**

Introduction

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

- more time to cancel a Notice to End Tenancy, pursuant to section 66;
- cancellation of the Four Month Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of Rental Unit, pursuant to section 49; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

The landlord did not attend this hearing, although I left the teleconference hearing connection open until 9:40 a.m. in order to enable the landlord to call into this teleconference hearing scheduled for 9:30 a.m. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant's advocate, support person and witness also attended the hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the tenant, the tenant's advocate and the tenant's witness and I were the only ones who had called into this teleconference.

The tenant and advocate confirmed their email addresses for service of this decision.

The advocate submitted that the tenant has already moved out of the subject rental property and that this tenancy has ended. The advocate submitted that the tenant is now seeking a section 51 monetary claim for damages. I advised the tenant and the tenant's advocate that the tenant would have to file a monetary application for compensation from the landlord related to a Notice to End Tenancy for Landlord's Use of Property, pursuant to section 51 of the *Act*.

Section 4.2 of the Rules states that in circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing. If an amendment to an application is sought at a hearing, an Amendment to an Application for Dispute Resolution need not be submitted or served.

I informed the tenant and the tenant's advocate that I would not amend the tenant's application in the hearing because the landlord did not attend and, and therefore would not have notice of the new claims made against them. I find that to hear the amended claim would severely prejudice the landlord as the landlord would not have time to respond to the new claim. I find that based on the original claim filed by the tenant, the landlord could not reasonably have anticipated the proposed amendment.

I dismiss the tenant's application for dispute resolution because the issues raised in the application are no longer applicable as the tenancy has ended. The tenant remains at liberty to file a monetary application for compensation from the landlord related to a Notice to End Tenancy for Landlord's Use of Property, pursuant to section 51 of the *Act*.

Conclusion

The tenant's application for dispute resolution is dismissed without 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: August 26, 2021

Residential Tenancy Branch