



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL-4M, RP

Introduction

The tenant had applied to dispute a notice to end tenancy (the “Notice”) that was issued under section 49(4) of the *Residential Tenancy Act* (“Act”). In addition, the tenant had applied for a repair order pursuant to sections 32 and 62 of the Act.

Landlord’s counsel and the tenant’s agent attended the hearing. Counsel provided the landlord’s correct name, which is reflected on the style of cause.

It should be noted that there appeared to be an unidentified caller on the teleconference line at the start of the hearing. I remarked to landlord’s counsel that it might be a new arbitrator listening to the hearing for training purposes. The tenant’s agent eventually identified herself, however, and thus there were no additional participants in the hearing.

Preliminary Issue 1: Dismissal of Claims Unrelated to the Notice

Rule 2.3 of the *Rules of Procedure*, under the Act, states that claims made in an application must be related to each other. It further states that an arbitrator may use their discretion to dismiss unrelated claims with or without leave to reapply.

Having reviewed the tenants’ application, I find that the claims other than the application to dispute the Notice are unrelated to this central claim. The most important matter that must be dealt with is determining whether this tenancy will continue.

As such, the tenant’s application for an order for regular repairs is dismissed with leave to reapply. They may reapply for this relief if they deem it necessary.

Preliminary Issue 2: Withdrawal of Notice

Landlord’s counsel explained that the Notice had been erroneously issued under section 49(4) of the Act. As such, the Notice is, he further explained, considered an

invalid notice and it is of no force or legal effect. Accordingly, the tenancy shall continue until it is ended in compliance with the Act.

I explained to the tenant's agent that the tenant may continue to reside in the rental unit until a proper notice to end tenancy is issued, or, until the parties mutually agree to end the tenancy. In other words, the tenant is not required to vacate the rental unit by August 31, 2021, as stated in the Notice.

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

Dated: August 12, 2021

Residential Tenancy Branch