



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **PSF, LRE, LAT, OLC, FFT, CNR**

OPR, MNRL-S, MNDCL-S, FFL

Introduction

The words tenant and landlord in this decision have the same meaning as in the *Residential Tenancy Act*, (the "Act") and the singular of these words includes the plural.

This hearing dealt with applications filed by both the landlord and the tenant pursuant to the *Act*.

The tenant applied for:

- An order to provide services or facilities required by a tenancy agreement or law pursuant to section 62;
- An order to suspend a landlord's right to enter the rental unit pursuant to section 70;
- Authorization to change the locks to the rental unit pursuant to section 31.
- An order for the landlord to comply with the *Act*, Regulations and/or tenancy agreement pursuant to section 62;
- Recovery of the filing fee from the opposing party pursuant to section 72; and
- An order to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities pursuant to section 46.

The landlord applied for:

- An Order of Possession for unpaid Rent pursuant to sections 46 and 55;
- A monetary order for rent and/or utilities and authorization to retain a security deposit pursuant to sections 38 and 67;
- A monetary order for damages or compensation and authorization to retain a security deposit pursuant to sections 38 and 67; and
- Recovery of the filing fee from the opposing party pursuant to section 72.

The landlord did not attend this hearing, although I left the teleconference connection open until 11:10 A.M. to enable the landlord to call into this hearing scheduled for 11:00 A.M. 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 and I were the only ones who had called into this teleconference.

The tenant LD (“tenant”) attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The tenant acknowledged receipt of the landlord’s Application for Dispute Resolution.

At the commencement of the hearing, the tenant testified that the parties had attended a dispute resolution hearing regarding the landlord’s application for an early end to the tenancy and as a result of that hearing, the landlord obtained an order of possession. In accordance with that order of possession, the tenant vacated the rental unit on October 7, 2021. The file number of the previous dispute resolution is recorded on the cover page of this decision.

Preliminary Issue

As a result of the tenant’s undisputed testimony, I find the tenancy ended pursuant to the previous arbitrator’s order of possession pursuant to section 44(1)(f). The tenant’s application no longer discloses a dispute that may be determined under Part 5 of the *Residential Tenancy Act* and as a result, the tenant’s application is dismissed without leave to reapply pursuant to section 62(4) of the *Act*.

Rule 7.3 of the Rules of Procedure provides that 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. Rule 7.4 states that 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 to present evidence, any written submissions supplied may or may not be considered.

The landlord did not attend the hearing which was scheduled by conference call at 11:00 a.m. and concluded at 11:10 a.m. As he did not attend, he did not present evidence regarding the merits of his claim for me to consider. Consequently, the landlord’s applications seeking monetary orders for rent and damages pursuant to section 67 are dismissed with leave to reapply.

The landlord’s application seeking an order of possession and a recovery of the filing fee are dismissed without leave to reapply.

Conclusion

The tenant's application is dismissed without leave to reapply.

The landlord's application seeking monetary orders for rent and damages pursuant to section 67 are dismissed with leave to reapply.

The landlord's application seeking an order of possession and a recovery of the filing fee are 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: October 25, 2021

Residential Tenancy Branch