



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPT, FFT

Introduction

The tenants, by way of joinder applications, applied for orders of possession pursuant to section 54 of the *Residential Tenancy Act* (“Act”). In addition, they applied to recover the cost of the filing fee, pursuant to section 72 of the Act.

The parties attended a hearing on December 2, 2021 before a different arbitrator (referred to as the “original arbitrator”). An Interim Decision was issued on December 3, 2021, in which five applications were adjourned to a hearing before me scheduled for December 23, 2021. Two applications were adjourned to hearing on January 14, 2022 before the original arbitrator.

Preliminary Issue: Withdrawal of Applications

On December 21, 2021, tenants’ counsel contacted the Residential Tenancy Branch (“RTB”) to advise that “The parties have reached a settlement; all issues raised in the applications have been resolved, and the hearings are no longer necessary.” Attached to counsel’s email were signed and executed copies of the written agreements between the applicants and the respondent. Counsel’s request to withdraw the claims, along with copies of the above-noted written agreements were forwarded by RTB staff to my attention for disposition.

Rule 5.0.1 of the RTB’s *Rules of Procedure*, under the Act, permit the withdrawal of an application after a hearing has begun and is adjourned. It states the following:

Where a participatory hearing (a hearing that is scheduled to take place in person, by telephone or by videoconference) has begun but is adjourned by an arbitrator for continuation at a later date, a party seeking to withdraw that application must provide evidence of the other party’s consent to the withdrawal

and that the parties have resolved all matters at issue in the application through a written agreement, such that continuation of the hearing is no longer necessary.

Although the arbitrator will issue a final decision in the matter under Rule 8.7 [*Original decision*], no orders reflecting the terms of the settlement will be issued under Rule 8.4 [*Decision and orders based on settlement*].

Having reviewed counsel's request for withdrawal, and having carefully reviewed the written agreements, I am satisfied that the issues raised in the tenants' applications are resolved and that the hearings scheduled for December 23, 2021 and January 14, 2022 are now unnecessary. The applicants' request to withdraw is hereby approved.

This decision shall constitute the final decision as required by Rule 8.7 of the *Rules*.

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

Dated: December 22, 2021

Residential Tenancy Branch