



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC MNDCT OLC PSF AAT O

Introduction

This hearing dealt with an Application for Dispute Resolution (application) by the tenant seeking remedy under the *Residential Tenancy Act* (Act) for a monetary order for \$5,000.00 for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, to cancel a 1 Month Notice to End Tenancy for Cause (1 Month Notice), for an order directing the landlord to comply with the Act, regulation or tenancy agreement, for an order directing the landlord to provide services or facilities agreed upon but not provided, and for an order directing the landlord to allow access to the rental unit. The filing fee was waived for this application.

The tenant, an agent for the landlord, DD (agent), and a resident manager for the landlord, FM (manager) appeared at the teleconference hearing and gave affirmed testimony. During the hearing the parties were given the opportunity to provide evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the matter before me.

Preliminary and Procedural Matters

The parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The parties were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the parties were informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. Neither party had any questions about my direction pursuant to RTB Rule 6.11.

In addition, the parties confirmed their respective email addresses at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them.

RTB Rule 2.3 authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated several matters of dispute on the application, the most urgent of which is the application to cancel the 1 Month Notice and the 1 Month Notice is also the reason why this proceeding was scheduled as an expedited hearing. I find that not all the claims on the application are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenant's request to cancel the 1 Month Notice at this proceeding. The balance of the tenant's application is dismissed, with leave to re-apply.

Issues to be Decided

- Should the 1 Month Notice be cancelled?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month-to-month tenancy began on June 1, 2015.

The parties agreed that a fire occurred in the rental unit on October 6, 2021. A copy of the fire department Incident Report (Fire Incident Report) was submitted in evidence and states that the fire was deemed accidental, and that a battery pack was found in the area of origin and was the ignition source. The Fire Incident Report also states in part the following:

Extensive fire, smoke and water damage to the structure and contents.

The tenant testified that the fire was "not that bad" and the tenant was informed during the hearing that I prefer the evidence of the Fire Incident Report over that of the tenant which confirms there was extensive fire, smoke and water damage to the structure and contents.

Although the 1 Month Notice was served after the fire occurred, I will address the fire and frustration of the tenancy agreement further below. The manager testified that the

rental unit remains in need of repair/remediation due to the fire and is not rented as a result.

The Fire Incident Report also indicates that several people had to be evacuated from the building. The Fire Incident Report also indicates that unsafe hoarding was in the apartment and around the area of origin was excessive amounts of combustible material like clothing, power tools, scooter, and skateboards etc. There were also a few bottles of butane and a butane torch, and smoker materials in and around the area.

The manager testified that the fire department advised them that the rental unit was uninhabitable, which is supported by the Fire Incident Report.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

In the matter before me, there is no dispute that a fire occurred inside the rental unit on October 6, 2021. While I do not make a finding on the cause of the fire, **I find** that the tenancy became frustrated due to a fire in the rental unit on October 6, 2021. As a result of the above, **I find** the tenancy ended as of **October 6, 2021** the day of the fire.

I find the 1 Month Notice is moot as a result of the tenancy ending due to frustration caused by fire on October 6, 2021.

The tenant's claim is dismissed as a result.

Conclusion

The tenant's claim has been dismissed, due to insufficient evidence, without leave to reapply.

The tenancy has already ended already by way of frustration due to a fire caused on October 6, 2021.

This decision will be emailed to both parties.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: February 4, 2022

Residential Tenancy Branch