



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFT, CNR-MT, MNRT, RR, RP, MNDCT, LRE, OLC

Introduction

This hearing was scheduled to deal with a tenant's application. The tenant applied for numerous remedies, as follows:

- cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent issued in November 2021, and a request for an extension of time to dispute the 10 Day Notice;
- orders for compliance;
- orders for repairs;
- orders to suspend or set conditions on the landlord's right to enter the rental unit;
- authorization to reduce rent payable;
- monetary compensation for emergency repairs made by the tenant; and,
- compensation for other damages or losses under the Act, regulations, or tenancy agreement.

Preliminary and Procedural Matters

The landlord and the tenant appeared at the commencement of the hearing. The tenant was also accompanied by two witnesses. I instructed the tenant to exclude her witnesses so that they were waiting elsewhere and not able to hear the proceedings until they were called to testify. The tenant confirmed that the witnesses had left and would wait elsewhere until called to testify.

I affirmed the tenant and the landlord.

The style of cause was amended, without objection, to correct misspellings in the names of the parties.

Shortly after the hearing started, the parties provided consistent statements to me that the landlord has already obtained an Order of Possession and a Writ of Possession that was executed by the bailiff in January 2022, although the parties provided different dates in January 2022 when this occurred. I was able to confirm in the Residential Tenancy Branch records that on January 10, 2022, the landlord was provided an Order of Possession and Monetary Order for the unpaid rent from November 2021 (file number provided on the cover page of this decision). In these circumstances, I determined that many of the remedies sought by the tenant in this Application for Dispute Resolution were moot since the tenancy has ended and the landlord has regained possession of the rental unit with the exception of the tenant's monetary claims against the landlord.

I proceeded to explore service of hearing materials. The tenant testified that a process server served the landlord with her proceeding package and evidence on December 8, 2021. I asked the tenant to provide me the reason the proceeding package was served more than three days after it was provided to her by the Residential Tenancy Branch on December 1, 2021. The tenant stated that she did serve it within the few days she was required to do but the tenant also acknowledged there was a week's delay in having the package served. The tenant stated that she has a brain injury. The tenant also stated that she had to wait for funds to pay the process server approximately \$190.00 and that she did not serve it herself as she did not have gas money to drive over to the landlord's residence and because she is fearful of the landlord.

The landlord confirmed he received the hearing package and evidence via a process server on December 8, 2021; however, the landlord stated that the plumber's invoice/receipt was not included in the package he was served. Furthermore, the landlord testified that he received a telephone call from the plumbing company yesterday asking when payment would be made for the invoice.

The tenant responded that the plumbing company made an error and that her witnesses had paid the plumber's invoice on their credit card. The tenant then passed the telephone to her witness who started telling me about the plumber's invoice. It was apparent that the witness had been listening to the proceeding and did not remain excluded as instructed. Again, the tenant stated she has a brain injury and that she likely requires the assistance of her lawyer.

Although late service of the proceeding package may be overcome, and the plumber's invoice may or may not have been served, given the tainting of the witness and the tenant's explanation that she likely needs representation given her brain injury, I declined to hear the claims further and **I dismissed the tenant's monetary claim against the landlord with leave to reapply**. The landlord did not object. I encouraged the tenant to seek representation and proof of payment of the plumber's invoice before reapplying.

The tenant requested that she be able to serve the landlord with another Application for Dispute Resolution and her evidence via email. The landlord consented to be served by email and provided his email address for this purpose, which I have recorded on the cover page of this decision.

Conclusion

Many of the remedies sought by the tenant in this Application for Dispute Resolution are moot. The tenant's monetary claims against the landlord are dismissed with 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: February 08, 2022

Residential Tenancy Branch