



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDCT, OLC, FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "**Act**") for:

- cancellation of the One Month Notice to End Tenancy for Cause (the "**Notice**") pursuant to section 47;
- an order requiring the landlords to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement in the amount of \$2,833.90 pursuant to section 67;
- authorization to recover the filing fee for this application from the landlords pursuant to section 72.

The tenant attended the hearing. The landlord attended the hearing with her son as interpreter. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The tenant testified he served that the landlord with the notice of dispute resolution form and supporting evidence package via registered mail on January 15, 2022. The tenant provided a UPS tracking number confirming this mailing which is reproduced on the cover of this decision. The landlord confirmed receipt of the notice of dispute resolution package via registered mail on January 15, 2022. I find that the landlord was served with this package on January 15, 2022, in accordance with sections 88, 89, and 90 of the *Act*.

The landlord testified that she served the tenant with their evidence in person. The tenant confirmed receipt of the respondent's evidence. I find that the tenant was served, in accordance with sections 88 and 90 of the *Act*.

At the outset, I advised the parties of rule 6.11 of the Residential Tenancy Branch (the "**RTB**") Rules of Procedure (the "**Rules**"), which prohibits participants from recording the hearing. The parties confirmed that they were not recording the hearing.

I also advised the parties that pursuant to Rule 7.4, I would only consider written or documentary evidence that was directed to me in this hearing.

Preliminary Issue #1: Adjournment

Rules of Procedure, adjourning a hearing, Rule 7.8 Adjournment after the dispute resolution hearing begins states in part,

At any time after the dispute resolution hearing begins, the arbitrator may adjourn the dispute resolution hearing to another time. A party or party's agent may request that a hearing be adjourned. The arbitrator will determine whether the circumstances warrant the adjournment of the hearing

Rule 7.9 Criteria for granting an adjournment, states in part,

Without restricting the authority of the arbitrator to consider other factors, the arbitrator will consider the following when allowing or disallowing a party's request for an adjournment:

- The oral or written submission of the parties;
- The likelihood of the adjournment resulting in a resolution;
- The degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment; and
- The possible prejudice to each party.

The tenant requested adjournment of the hearing stating that he was unable to support his argument without the testimony of the Bylaw Inspector. The tenant stated that he had sent an email request to the Bylaw Inspector and did not receive a reply. He requested a summons be issued for a witness to appear. The landlord had no objection. The adjournment was granted on the likelihood the information may result in resolution of the issue under dispute. A reconvened hearing dated, **March 18, 2022 at 11:00 a.m.** has been scheduled.

Preliminary Issue #2: Request for Summons

At the beginning of the hearing, the tenant requested a summons be issued for the Bylaw Inspector who issued the Compliance Notice to the landlords. As part of the summons request the tenant requests the Bylaw Inspector clarify the following:

- a. if the landlords are in breach of the *Residential Tenancy Act* specifically s. 32;
- b. if the landlords claim that there is an "implicit **Order to Vacate**" which requires the tenant to move out of the secondary suite that must be complied with" is correct.

The tenant submitted a written request prior to the hearing requesting the above summons as the tenant believes that the Bylaw Inspector "is the only one who can provide affirmed evidence on this main contested issue".

The tenant stated in the hearing that the tenant made a written request directly to the Bylaw Officer requesting he attend the hearing. He did not get a response.

I have reconsidered the tenant's request for the summons above. Taking in consideration the information I have before me, I do not feel that the tenant has provided sufficient information to satisfy me why it is necessary for me to issue a summons for the Bylaw Inspector to attend. The letter from the Bylaw inspector is clearly stated:

- ...you are required to either decommission the suite **or** legalize it.
- Tenant(s) are **not** permitted to occupy an illegal suite.

A Bylaw Inspector's role is to enforce municipal bylaws. Bylaw Inspectors are not experts in either the *Residential Tenancy Act* or the *Manufactured Home Park Tenancy Act*. It is the arbitrator's role to make findings of fact and apply these facts to the applicable laws. RTB arbitrators are experts in the *Residential Tenancy Act*, the *Manufactured Home Park Tenancy Act*, and their associated regulations.

The tenant's request for a summons is denied.

Conclusion

The tenant's application for a summons to appear is denied.

The hearing is closed for submissions.

The hearing has been rescheduled for **March 18, 2022 at 11:00 a.m.**

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: March 11, 2022

Residential Tenancy Branch