



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction

This hearing dealt with the tenant's application pursuant to section 49 of the *Residential Tenancy Act* (the "Act") for cancellation of the landlord's 2 Month Notice to End Tenancy for Landlord's Use of Property (the "2 Month Notice").

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The tenant was represented by family members and an advocate.

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

As both parties were present service was confirmed. The landlords testified that they received the respective materials and had not served any materials of their own. Based on their testimonies I find each party duly served in accordance with sections 88 and 89 of the *Act*.

At the outset of the hearing the parties said the tenant has vacated the rental unit and the tenancy has ended. The tenant withdrew their claim for cancellation of the 2 Month Notice. The landlord confirmed they have possession of the rental unit and an Order of Possession is no longer required.

The tenant requested to amend their application to seek a monetary award for damages and loss arising from a breach of the *Act*, regulations or tenancy agreement by the landlords pursuant to section 67.

Pursuant to Residential Tenancy Rules of Procedure 2.2 and 6.2 a claim is limited to what is stated on the application for dispute resolution. Section 64(3)(c) of the Act and Rule 4.2 grants me the power to amend an application for dispute, in circumstances that can be reasonably anticipated. The tenant further submits that the authority pursuant to section 62(1)(b) allows me to consider issues such as a claim for monetary award arising from a tenancy that is the subject of the original dispute.

Under the circumstance, I find the potential prejudice to the landlords who have not been served with any notice of amendment by the tenant in accordance with Rule 4.6 to outweigh the expediency and efficiency of allowing the tenant to add a new head of claim. I find it would be a breach of the principles of procedural fairness and natural justice to allow the tenant to pursue a new claim that is not indicated on their application. Accordingly, I decline to amend the application to allow the tenant to include a monetary claim.

Conclusion

The application is withdrawn and 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: March 28, 2022

Residential Tenancy Branch