



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC-MT, PSF, LRE, OLC, RR, MNDCT

Introduction

The Tenant applies for the following relief under the *Residential Tenancy Act* (the “Act”):

- An order to cancel a One-Month Notice to End Tenancy pursuant to s. 47;
- An order pursuant to s. 66 for more time to dispute the One-Month Notice;
- An order pursuant to s. 62 that the Landlord comply with the *Act*, Regulations, and/or the tenancy agreement;
- An order pursuant to s. 65 that the Landlord provide services or facilities;
- An order pursuant to s. 65 that rent be reduced for loss of services or facilities; and
- An order pursuant to s. 70 setting conditions on the Landlord’s right of entry into the rental unit.

The Tenant filed an amendment to their application in which they seek an order for monetary compensation pursuant to s. 67.

T.W. appeared as Tenant. J.K. appeared as the Tenant’s advocate. The Landlord did not attend the hearing.

Pursuant to Rule 7.1 of the Rules of Procedure, the hearing began as scheduled in the Notice of Dispute Resolution. As the Landlord did not attend, the hearing was conducted in their absence as permitted by Rule 7.3 of the Rules of Procedure.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. The parties confirmed that they were not recording the hearing.

Amendment to the Application – Dismissal of Tenant's Application

The Tenant's advocate advised that the tenancy ended by virtue of an application brought by the Landlord in the fall of 2021 for the early termination of the tenancy under s. 56. The Landlord obtained an order for possession dated November 16, 2021 after their application was heard on November 12, 2021. The Tenant advises that he was locked out of his rental unit on November 15, 2021 and advances monetary claims related to the tenancy's end.

The Tenant's present application was originally filed on October 20, 2021. The Tenant's advocate advises that the Notice of Dispute Resolution was served on the Landlord via registered mail sent on October 22, 2021.

The Tenant's advocate advises that the amendment, which comprises the monetary claim, was filed in early February 2022 and served on the Landlord by way of registered mail sent on February 9, 2022. However, I am told that there was an issue with the amendment that was sent on February 9, 2022 and that the Tenant had to resubmit their amendment. The amendment that was accepted by the Residential Tenancy Branch was signed on February 15, 2022.

Rule 4.1 of the Rules of Procedure permits the amendment of an application before the hearing. Policy Guideline 23 provides guidance with respect to the amendment process. As made clear within Policy Guideline 23, "[t]he rules require an amendment to be related to existing claims on the initial application".

At the hearing, I voiced my concerns with respect to the significant alteration to the application brought about by the amendment that was filed immediately before the 14-day deadline set by the Rules of Procedure. The Tenant's advocate argued that the Landlord was surely aware of the issues raised in the amendments given the circumstances at the end of the tenancy. The Landlord was not present to provide their view and submitted no evidence to the Residential Tenancy Branch.

I find that the amendment signed on February 15, 2022 should not be permitted as I find that it is not sufficiently related to the existing claims raised in the initial application. The original application sought relief tied to ongoing tenancy. As is clear based on the Tenant's submissions, the tenancy is over and the only remaining issue relates to end of tenancy compensation. To proceed otherwise would be procedurally unfair to the Landlord, who should be given opportunity to provide a defence to the Tenant's claim. I

dismiss the Tenant's claim for compensation under s. 67 of the *Act* with leave to reapply.

With respect to the other aspects of the Tenant's application, as the tenancy is over, most of the claims are no longer relevant. I dismiss the Tenant's claims under sections 47 (cancel the One-Month Notice), 66 (more time to dispute the One-Month Notice), 62 (order that the Landlord comply), 65 (Landlord to provide services), and 70 (restricting the Landlord's right of entry) without leave to reapply as the tenancy is over.

I note that the Tenant's claim for a rent reduction may still be applicable as s. 65 of the *Act* permits claims for reduction to past rent. This aspect of the Tenant's claim, if it is to be advanced, would most efficiently be dealt with at the same time as their claim for monetary compensation under s. 67. Accordingly, their claim for past rent reduction is dismissed with leave to reapply.

To summarize, the following claims are dismissed without leave to reapply:

- An order to cancel a One-Month Notice to End Tenancy pursuant to s. 47;
- An order pursuant to s. 66 for more time to dispute the One-Month Notice;
- An order pursuant to s. 65 that the Landlord provide services or facilities; and
- An order pursuant to s. 70 setting conditions on the Landlord's right of entry into the rental unit.

The following claims are dismissed with leave to reapply:

- An order for monetary compensation pursuant to s. 67; and
- An order pursuant to s. 65 that rent be reduced for loss of services or facilities.

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 01, 2022

Residential Tenancy Branch