



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT LIMITED PARTNERSHIP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

For the landlord: **OPC, FFL**

For the tenant: **CNC, OLC, MNDCT, RP, PSF, RR**

Introduction

This hearing dealt with applications filed by both the landlord and the tenant pursuant to the Residential Tenancy Act (“Act”).

The landlord applied for:

An order of possession for cause pursuant to sections 47 and 55; and
Authorization to recover the filing fee from the other party pursuant to section 72.

The tenant applied for:

An order to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to sections 47 and 55;
An order for the landlord to comply with the Act, regulations or tenancy agreement pursuant to section 62;
A monetary order for damages or compensation pursuant section 67;
An order for repairs to be made to the unit, site or property pursuant to section 32;
An order that the landlord provide services or facilities required by the tenancy agreement pursuant to section 27; and
An order for a reduction of rent for repairs, services or facilities agreed upon but not provided pursuant to section 65.

The tenant attended the hearing and the landlord attended the hearing represented by property manager, JL (“landlord”). As both parties were present, service of documents was confirmed. The tenant acknowledged service of the landlord’s Notice of Dispute Resolution Proceedings package and stated he had no issues with timely service of documents.

Preliminary Issue – service of the tenant’s evidence

The landlord acknowledged service of the tenant's Notice of Dispute Resolution Proceedings and amendments, however she testified that she did not receive any of the tenant's evidence.

The tenant testified he uploaded all his evidence to a memory stick and dropped it in an envelope and deposited it in a mailbox at the landlord's office located 4 blocks away. The tenant was unable to provide me with the address of the landlord's office and acknowledged that the address for the landlord provided on his application for dispute resolution was incorrect. The tenant did not recall the date he gave his evidence to the landlord but deduced it was January 11th. I note the Notice of Dispute Resolution Proceedings wasn't provided to the tenant until January 21, 2022. The tenant acknowledges he did not confirm with the landlord that she was able to gain access to the digital evidence.

Rule 3.10.5 of the Residential Tenancy Branch Rules of Procedure states:

3.10.5 Confirmation of access to digital evidence

Before the hearing, a party providing digital evidence to the other party must confirm that the other party has playback equipment or is otherwise able to gain access to the evidence.

Rule 3.5 states:

3.5 Proof of service required at the dispute resolution hearing

At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure

Based on the testimony of the parties, I was not satisfied the respondent/landlord was served with all the evidence as required by the Act and consequently, the tenant's documentary evidence was excluded from consideration in this decision. The tenant's testimony would be accepted as evidence, as would the landlord's testimony and documentary evidence.

Preliminary Issue – severing of unrelated issues

Rule of Procedure 6.2 allows an arbitrator to decline to hear or dismiss unrelated issues. I determined the tenant's application to cancel the landlord's one month notice to end tenancy for cause and the landlord's application to end the tenancy for cause are related issues and could be heard together. The tenant's other issues were not sufficiently related and I exercised my discretion to dismiss them with leave to reapply at the commencement of the hearing.

Settlement Reached

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. I advised the parties that there is no obligation to resolve the dispute through settlement and that if either party did not wish to resolve this matter through settlement, I was prepared to make a decision based on the evidence before me. During the hearing the parties discussed the issues between them, turned their minds to compromise and achieved the following resolution of their dispute.

1. The parties mutually agree to end this tenancy. This tenancy will end at 1:00 p.m. on June 30, 2022 by which time the tenant and any other occupant will have vacated the rental unit.
2. The notice to end tenancy is cancelled and of no further force or effect.
3. The rights and obligations of the parties continue until the tenancy ends.
4. The remainder of the tenant's application for dispute resolution is dismissed with leave to reapply.

Both parties testified that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute. As the parties resolved matters by agreement, I make no findings of fact or law with respect to the application before me.

Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue an Order of Possession to the landlord. The landlord is to serve this Order of Possession upon the tenant immediately and enforce it as early as 1:00 p.m. on June 30, 2022 should the landlord be required to do so.

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: April 11, 2022

Residential Tenancy Branch