



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDCT, FFT

Introduction

This hearing was scheduled for 1:30 p.m. on this date, via teleconference call, to deal with a tenant's application, filed on January 7, 2022, to seek cancellation of a One Month Notice to End Tenancy for Cause ("1 Month Notice").

The tenant appeared at the commencement of the hearing but the landlord was not present. I explored service of hearing materials upon the landlord since the landlord was not in attendance.

The tenant testified that she served the original hearing package and her evidence to the landlord via registered mail sent on January 20, 2022 and the landlord picked up the registered mail on January 26, 2022. The tenant provided the registered mail tracking number as proof of service.

The tenant testified that she sent an Amendment to an Application for Dispute Resolution, along with a Monetary Order worksheet, to seek return of the security deposit and a refund of an insurance deductible paid to the landlord, to the landlord via registered mail sent on March 16, 2022. The tenant provided a registered mail tracking number and a search of the tracking number showed a notice card was left on March 18, 2022 but no further activity after that date.

Rule 2.3 and Rule 6.2 of the Rules of Procedure provide:

2.3 Related issues

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

6.2 What will be considered at a dispute resolution hearing

The hearing is limited to matters claimed on the application unless the arbitrator allows a party to amend the application. The arbitrator may refuse to consider unrelated issues in accordance with Rule 2.3 [Related issues]. For example, if a party has applied to cancel a Notice to End Tenancy or is seeking an order of possession, the arbitrator may decline to hear other claims that have been included in the application and the arbitrator may dismiss such matters with or without leave to reapply.

I was unsatisfied the amended issues were related to the primary issue that gave rise to the filing of the Application for Dispute Resolution. Further, I was not persuaded that the landlord was served with the tenant's Amendment at least 14 clear days before the scheduled hearing date as is required under the Rules of Procedure. Accordingly, I informed the tenant that I was not permitting the application to be amended and the tenant's monetary claims were dismissed with leave to reapply.

As for the tenant's original remedy, to seek cancellation of a 1 Month Notice, the tenant stated she has already moved out of the rental unit.

At approximately 1:45 p.m., 15 minutes after the hearing commenced, the landlord appeared. The landlord stated her daughter had taken the Notice of Dispute Resolution Proceeding so she did not have the teleconference call information. I informed the landlord that I had already heard from the tenant for approximately 15 minutes.

Nevertheless, I confirmed with the landlord that the tenant has already moved out of the rental unit and the landlord does not require an Order of Possession. As such, I found the original remedy sought by the tenant, and the landlord's entitlement to an Order of Possession, to be moot issues for me to decide.

As for the tenant's monetary claim filed by way of an Amendment, the landlord stated she did not receive an Amendment or a monetary claim from the tenant. I informed the parties that my decision would remain as I had stated to the tenant, that I would not permit the original Application for Dispute Resolution to be amended and the tenant's monetary claims are dismissed with leave to reapply.

The parties were given some information with respect to a landlord's obligation to administer the security deposit in accordance with section 38 of the Act and a tenant's entitlement to doubling of the deposit where the landlord fails to comply with section 38

of the Act. The landlord stated she intends to file a monetary claim against the tenant. Both parties were informed of their respective right to file a monetary claim against the other and that they may even seek to join the two applications. Further information concerning filing an Application for Dispute Resolution and joining of applications may be obtained by contacting an Information Officer with the Residential Tenancy Branch.

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 05, 2022

Residential Tenancy Branch