



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "**Act**") for an order of possession of the rental unit pursuant to section 54.

This application was brought on an expedited basis pursuant to Residential Tenancy Branch (the "**RTB**") Rule of Procedure 10.

All parties attended the hearing. The landlords were assisted by an agent ("**TL**"). All were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Preliminary Issue – Withdrawal of Application

The parties participated in a full hearing. During the course of the hearing, it became clear that the tenant no longer wanted an order of possession entitling him to return to the rental unit. He had secured a new residence (albeit at a higher monthly rent and with less amenities). During his submissions he made references to wanting monetary compensation and to the fact that a new tenant occupied the whole of the residential property (a house) in which the rental unit (a bedroom) was located.

I asked the tenant if he, in fact, still wanted the relief he sought. The tenant stated that he likely did not. I advised him that I may be unable to grant the relief sought for a number of reasons, including that the rental unit was now occupied by a new tenant (per RTB Policy Guideline 51) and due to a potential lack of jurisdiction (there is a dispute as to whether landlord JK is the tenant's landlord along with landlord AL, or whether the tenant is subletting a room in the residential property from landlord AL). The tenant stated that an order of possession allowing him to return to the rental unit may not now be what is best for him.

I advised the tenant that I am only able to make a decision on the issue of whether he is entitled to an order of possession, and that, as this application was brought on an expedited basis, the tenant is explicitly prohibited by Policy Guideline 51 from amending the application to include another claim (for a monetary order, for example). I advised the tenant that he would be free to make another application to the RTB (or to another forum if he believed the RTB did not have jurisdiction) for compensation.

The tenant acknowledged this and stated that he would like to withdraw his application for an order of possession.

The landlords did not object.

As such, I dismiss the tenant's application for an order of possession, without leave to reapply. I explicitly make no decision or findings of fact as to whether the RTB has jurisdiction over any dispute between the parties.

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 5, 2022

Residential Tenancy Branch