



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNDCT, CNC, MNRT, DRI, AS, RR, LRE, RP, OLC, LAT, FFT**

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") pursuant to section 47;
- a monetary award for repayment of emergency repairs pursuant to section 33;
- a dispute of a rental increase pursuant to section 43;
- authorization to assign or sublet the rental unit pursuant to section 34;
- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- an order to the landlord to make repairs to the rental unit pursuant to section 33;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- authorization to change the locks to the rental unit pursuant to section 70;
- and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

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 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 parties each testified that they received the respective materials and based on their testimonies I find each party duly served in accordance with sections 88 and 89 of the *Act*.

Residential Tenancy Policy Rule of Procedure 3.7 provides that evidence submitted by a party must be organized, clear and legible. I find that both parties submitted numerous pieces of individual evidence in a haphazard and poorly organized manner. The parties filed many individual files instead of a single pdf file with numbered pages, The file names are inconsistent and unclear as to their contents so that it is confounding for the reader. Files are uploaded non-sequentially in no discernable order so that locating individual pieces of evidence is difficult and time consuming. While I have not excluded any of the documentary evidence of either party, I find that the poor presentation detrimentally affects the strength of submissions and the parties are advised to submit all evidence in a single numbered pdf file containing only relevant materials.

Issue(s) to be Decided

Should the 1 Month Notice be cancelled? If not are the landlords entitled to an Order of Possession?

Are the tenants entitled to any of the relief sought?

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The parties agree that this tenancy began in 2021. The monthly rent is \$3,200.00 payable on the first of each month. In addition the tenants are responsible for paying \$195.00 towards utilities and garbage collection.

There was a previous hearing under the file number on the first page of this decision on July 29, 2021 in which the tenant applied for substantially the same relief sought in the present application. At that hearing the tenant's application was dismissed in its entirety without leave to reapply. The tenant testified that for the present hearing they have simply chosen to indicate many of the heads of claim regardless of whether they apply.

The tenant submits that since taking possession of the rental unit they have found it in need of major repairs and work. The tenant complains about an ongoing campaign of harassment on the part of the landlords. The tenant submitted a large volume of photographs and copies of correspondence between the parties and others.

The tenant gave testimony complaining about the landlords and impugning their character and reliability. The landlords, similarly gave lengthy testimony complaining about the conduct of the tenant, their interactions with them and how they wish for this tenancy to end.

The parties agree that the landlord issued a 1 Month Notice to End Tenancy for Cause. In their application the tenant submits that they were served with a 1 Month Notice on February 5, 2022. The only documentary evidence of a 1 Month Notice are what appears to be the 1st and 3rd page of a notice dated March 2, 2022 with an effective date of March 15, 2022. The parties confirmed repeatedly that this was the full and complete notice issued on the tenant.

Analysis

Pursuant to Residential Tenancy Rule of Procedure 6.6 the applicant bears the evidentiary onus to establish their claim on a balance of probabilities.

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

In the present case the tenant stated that they have filed their application for various claims regardless of whether there is any basis for these claims. In their application the tenant has simply written “Fix later” for most of their claims.

As regards their monetary claim the tenant has haphazardly submitted photographs and portions of correspondence and submits that the landlords have acted in a manner that they characterize as harassment. The tenant also seeks reimbursement for the cost of emergency repairs.

Section 33 of the *Act* describes “emergency repairs” as those repairs that are urgent, necessary for the health or safety of anyone or for the preservation or use of residential property, and made for the purposes of:

- repairing major leaks in pipes or the roof,
- damage or blocked water or sewer pipes or plumbing fixtures
- the primary heating system
- damaged or defective locks that give access to the rental unit
- the electrical systems
- in prescribed circumstances, a rental unit or residential property

A tenant may have emergency repairs made only when they are needed and the tenant has made at least 2 attempts to contact the landlord to have the repairs made and the landlord has failed to perform the repairs in a reasonable timeframe.

I find that the issues claimed by the tenant are for such issues as clean up, painting and appliances and do not meet the definition of emergency repairs as set out above.

I further find little cogent evidence in support of the tenant’s monetary claim. Their submissions consist of subjective complaints focusing more on their distrust and opinion of the landlords’ character and the documentary materials consist of random images and communications which do not rise to the level of demonstrating a breach on the part of the landlords.

I find that the tenants have failed to establish any portion of their claim on a balance of probabilities. Consequently, I dismiss the tenants’ application in its entirety.

While I have dismissed the tenants’ application I am unable to find that the 1 Month Notice conforms to the form and content requirement of section 52 of the *Act*. Not only is the 1 Month Notice submitted into evidence dated significantly after the date this

application was filed, it only contains the 1st and 3rd page omitting any details of the reason for the issuance of the notice or the details of the cause. Accordingly, I decline to issue an Order of Possession.

Conclusion

The tenants' application is dismissed in its entirety 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: May 20, 2022

Residential Tenancy Branch