



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDCT, FFT

Introduction

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

- cancellation of the landlords' Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, dated February 1, 2022 ("10 Day Notice"), pursuant to section 46;
- a monetary order of \$147.04 for compensation under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67;
- authorization to recover the \$100.00 filing fee paid for this application, pursuant to section 72.

"Landlord SS" and "tenant SGB" did not attend this hearing, which lasted approximately 9 minutes. Landlord NS ("landlord") and tenant JB ("tenant") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord and the tenant confirmed their names and spelling. They both provided their email addresses for me to send this decision to them after the hearing.

The landlord confirmed that she had permission to represent "landlord SS," the other landlord-respondent named in this application (collectively "landlords"). She said that landlord SS owns the rental unit. She provided the rental unit address.

The tenant confirmed that he had permission to represent tenant SGB, who is his daughter, and the other tenant-applicant named in this application (collectively "tenants").

Rule 6.11 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure* (“Rules”) does not permit recording of this hearing by any party. At the outset of this hearing, the landlord and the tenant both separately affirmed, under oath, that they would not record this hearing.

I explained the hearing process to both parties. Both parties had an opportunity to ask questions, which I answered. Neither party made any adjournment or accommodation requests.

At the outset of this hearing, the tenant stated that he vacated the rental unit on March 31, 2022. The landlord agreed and stated that an order of possession against the tenants was not required because the landlords already took back possession of the rental unit. I informed the tenant that this portion of the tenants’ application was dismissed without leave to reapply. He confirmed his understanding of same.

Rule 7.4 of the RTB *Rules* states the following:

7.4 Evidence must be presented

Evidence must be presented by the party who submitted it, or by the party’s agent.

As the tenants did not present or pursue their application for a monetary order of \$147.04 at this hearing, this claim is dismissed without leave to reapply. During this hearing, I repeatedly asked the tenant which claims in the tenants’ application, he was pursuing at this hearing. The tenant repeatedly answered that he only wanted the \$100.00 application filing fee back from the landlords.

The tenant stated that he wanted to pursue his monetary application for the \$100.00 filing fee at this hearing. The landlord disputed this claim, stating that the landlords did not agree to pay for it. I informed both parties that I would make a decision regarding the filing fee, since they were unable to reach an agreement.

A filing fee is a discretionary award usually awarded to a successful applicant party after a full hearing on the merits of the applicant’s application. As I was not required to make a decision on the merits of the tenants’ application, I decline to award the \$100.00 filing fee to the tenants. Accordingly, this claim is dismissed without leave to reapply.

Conclusion

The tenants' entire application is dismissed 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 19, 2022

Residential Tenancy Branch