



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC, MNRT, MNDCT, RPP

Introduction

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

- a monetary order of \$1.00 for compensation from the landlord related to a Notice to End Tenancy for Landlord's Use of Property, pursuant to section 51;
- a monetary order for the cost of emergency repairs of \$1.00 and for compensation for damage or loss of \$34,998.00 under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- an order requiring the landlord to return the tenants' personal property, pursuant to section 65.

The two tenants, tenant CR ("tenant") and "tenant ZH," the landlord, the landlord's advocate, the landlord's English language translator, and the landlord's lawyer attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. This hearing lasted approximately 61 minutes from 11:00 a.m. to 12:01 p.m.

The two tenants confirmed their names and spelling. The landlord's lawyer confirmed the names and spelling for him, the landlord, the landlord's advocate, and the landlord's translator. The tenant and the landlord provided their email addresses for me to send this decision to both parties after this hearing.

The landlord confirmed that he owns the rental unit. He confirmed that his lawyer had permission to speak on his behalf. He stated that his wife, who is his advocate, and his son, who is his translator, had permission to assist him at this hearing.

Tenant ZH confirmed that the tenant had permission to speak on his behalf at this hearing (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. The two tenants, the landlord, the landlord’s advocate, the landlord’s translator, and the landlord’s lawyer all separately affirmed, under oath, that they would not record this hearing.

I explained the hearing process to both parties. They had an opportunity to ask questions. Both parties confirmed that they were ready to proceed with this hearing. Neither party made any adjournment or accommodation requests.

The landlord’s lawyer confirmed receipt of the tenants’ application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenants’ application.

The tenant stated that the landlord was not served with the tenants’ video evidence. The landlord’s lawyer said that no video evidence was received by the landlord from the tenants. I informed both parties that I could not consider the tenants’ video evidence at this hearing or in my decision because it was not served to the landlord, as required. At the end of this hearing, the landlord’s lawyer stated that he did not object to me considering the tenants’ video evidence for the limited question of jurisdiction, if it assisted me in making my decision. I was not required to consider the tenants’ video evidence in my decision, as it was not relevant to my findings below.

At the outset of this hearing, I asked both parties to provide verbal submissions on whether I had jurisdiction to hear the tenants’ application under the *Act*, as the landlord’s lawyer raised the issue at outset of this hearing.

Issue to be Decided

Does the RTB have jurisdiction to consider the tenants’ application?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of both parties, not all details of the respective submissions and arguments are reproduced here. Only the relevant and important aspects of both parties’ submissions and my findings are set out below.

Both parties presented extensive submissions regarding whether this is a business tenancy excluded by section 4(d) of the *Act*. I have not included these submissions in this decision, as they are not relevant to my decision regarding jurisdiction of criminal matters. Only submissions relevant to jurisdiction of criminal matters are included below.

Tenant ZH confirmed that the tenants filed this application for \$35,000.00 and a return of personal property because the landlord stole their personal belongings and equipment, after a break and enter. He said that the tenants lost over \$100,000.00 of equipment and personal belongings but the tenants reduced their claim to \$35,000.00 because they wanted it heard at the RTB, which has a monetary limit of \$35,000.00. He stated that the tenants did not want their matter heard at the Supreme Court of British Columbia, which deals with monetary claims over \$35,000.00. He claimed that the landlord entered the rental property, which is a barn, the landlord was the only one with access and a key, and the tenants contacted the police. He maintained that the police officers came to complete forensic DNA testing, but it would take too long. He said that the landlord stole the tenants' property and continues to possess the stolen property, because the tenants saw it in the landlord's possession.

The landlord stated that he did not steal any of the tenants' belongings or have them in his possession. He said that other people were at the barn and farm property, late at night. He explained that the tenant let two other people onto the property. He maintained that the tenants called the police, the police told them they could take their items, and the tenants came to retrieve their items and left.

Analysis

In their online RTB application details, the tenants stated the following requesting the return of their personal property:

"I had over \$100,000 worth of equipment and supplies, all of it was gone when the officers accompanied me to the property to retrieve my belongings. The landlords often mentioned throughout the tenancy that they wanted to buy our equipment and supplies which quickly turned to threats when we questioned them about the large bill amounts they were sending us denying us the actual bill to see. I'm attaching a photo with the police file number. Cause it was considered a B and E."

Section 58 of the *Act* states the following, in part:

Determining disputes

58(1) Except as restricted under this Act, a person may make an application to the director for dispute resolution in relation to a dispute with the person's landlord or tenant in respect of any of the following:

(a) rights, obligations and prohibitions under this Act...

At this hearing, the tenants testified that they wanted the return of their personal property and compensation of \$35,000.00 because the landlord stole their belongings and still has possession of them. They said it was due to breaking and entering, which is a criminal offence. They claimed that they contacted the police and provided a police file number.

Theft and possession of stolen property are criminal offences under the Criminal Code of Canada ("CCC"). The RTB does not have jurisdiction to decide criminal matters under the CCC. Section 58 of the *Act* only permits applications for claims made pursuant to the *Act*, not the CCC. Therefore, I do not have jurisdiction to order the return of the tenants' personal property or compensation for same, as these claims arise from alleged criminal offences under the CCC.

For the above reasons, I find that this is not a matter within the jurisdiction of the RTB. Accordingly, I decline jurisdiction over the tenants' application.

Conclusion

I decline jurisdiction over the tenants' application. I make no determination on the merits of the tenants' application. Nothing in my decision prevents either party from advancing their claims before a Court of competent jurisdiction.

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 2, 2022

Residential Tenancy Branch