



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, MNETC, FFT

Introduction

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

- a monetary order of \$7,000.00 for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 67;
- a monetary order of \$1,000.00 for compensation from the landlord related to a Notice to End Tenancy for Landlord's Use of Property, pursuant to section 51;
- authorization to recover the \$100.00 filing fee paid for this application, pursuant to section 72.

The executor of the landlord's estate ("estate executor"), the lawyer for the landlord's estate ("estate lawyer"), and the 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. This hearing lasted approximately 51 minutes.

The estate executor, the estate lawyer, and the tenant confirmed their names and spelling. The estate lawyer and the tenant provided their email addresses for me to send this decision to both parties after the hearing.

The estate executor confirmed that the landlord, who is his mother, passed away. He said that he was appointed as the executor of the landlord's estate, as per the landlord's will, submitted as evidence for this hearing. He stated that he had permission to represent the landlord's estate at this hearing. He claimed that the estate lawyer had permission to represent the landlord's estate at this hearing.

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 estate executor, the estate lawyer, and the tenant all separately affirmed, under oath, that they would not record this hearing.

I explained the hearing and settlement processes to both parties. I informed them that I could not provide legal advice or act as their agent or advocate. They had an opportunity to ask questions. Neither party made any accommodation requests.

Pursuant to section 64(3)(c) of the *Act*, I amend the tenant’s application to correct the landlord’s surname from one word to two words. Both parties consented to this amendment during this hearing.

At the outset of this hearing, the estate lawyer made an adjournment request, stating that the landlord passed away suddenly on March 28, 2022, and the estate executor only received notice of the tenant’s application in the week before this hearing. She claimed that there was insufficient time to review the tenant’s evidence and the estate executor was unable to serve evidence to the tenant.

The tenant stated that she did not want to adjourn this hearing, but she wanted to settle this application. The estate executor and the estate lawyer agreed to discuss settlement with the tenant during this hearing. Both parties were provided with approximately 30 minutes during this hearing, to discuss settlement privately, but they were unable to reach an agreement.

At the end of this hearing, both parties agreed that they did not want to adjourn this hearing to a later date. The tenant stated that she was confident that this matter would settle amicably after this hearing. The tenant affirmed that she wanted leave to reapply if her application did not settle after this hearing. The estate lawyer and the estate executor agreed to the tenant being provided with leave to reapply for her application.

I informed both parties that, based on the consent of both parties, I would not adjourn this hearing or make a decision about same. I notified them that the tenant’s application to recover the \$100.00 filing fee was dismissed without leave to reapply. I informed them that the remainder of the tenant’s application for monetary orders totalling \$8,000.00, was dismissed with leave to reapply, based on the consent of both parties. Both parties confirmed their understanding of and agreement to same.

The tenant is cautioned to name and serve the correct landlord(s)/respondent(s) parties, if she files a future RTB application. The tenant confirmed during this hearing, that she is aware that the landlord is deceased.

Conclusion

The tenant's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the tenant's application for a monetary order of \$7,000.00 for damage or loss under the *Act*, *Regulation* or tenancy agreement, and a monetary order of \$1,000.00 for compensation from the landlord related to a Notice to End Tenancy for Landlord's Use of Property, is dismissed with 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 09, 2022

Residential Tenancy Branch