



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes RR, MNDCT, RP, FFT, CNR

Introduction

This hearing was convened in response to two separate applications filed by the tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

- cancellation of the landlord’s 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing.

Preliminary Issue – Service of tenant’s original application and change in tenancy status

At the outset of the hearing, counsel for the landlord advised they had only been served with the tenant’s second application pertaining to cancelling the 10 Day Notice and not the original application in which the tenant requested monetary compensation.

The tenant testified that the original application was also sent by registered mail, receipts for which were submitted online. The landlord’s counsel requested the tracking number so they could look into the matter. Before that could be done, the tenant’s advocate advised that there was a major change in the tenancy status as the tenant had vacated; therefore, the tenant’s second application to cancel the 10 Day Notice was moot as well as parts of the tenant’s original application requesting repairs to the unit.

At the same time, the landlord's counsel advised that the landlord had initiated another proceeding against the tenant which was set to be heard in February 2023. The landlord's application pertained to claims for unpaid rent, repair and damages and withholding the security deposit.

The most urgent matters identified in both the applications before me were the issues of the 10 Day Notice and repair requests. However, the parties advised that the tenant had since vacated the rental unit making both these matters moot.

Residential Tenancy Branch Rules of Procedure, Rule 2.3 states that, if, during the dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so, the Arbitrator may sever or dismiss the unrelated disputes contained in a single application with or without leave to apply.

As the only issues remaining from the tenant's application is purely monetary, I find that it is appropriate and a more efficient use of resources to dismiss both the tenant's applications in their entirety with leave to reapply so they can be heard together with the landlord's monetary application scheduled for February 13, 2023.

The landlord's counsel fully agreed with this proposal. The tenant's advocate stated they preferred to proceed with the matter today as the monetary application is what the tenant originally applied for, and the 10 Day Notice issue was just applied for recently.

It was explained to the advocate that even the tenant's original application was set for a priority hearing time due to the tenant's more urgent requests for repairs which is also now moot.

I find the efficiency of having this matter resolved in one hearing outweighs any potential prejudice to the tenant. Given that the landlord raised issues with service and that some of the issues identified in these applications are now resolved, I find it would just be cleaner for the tenant to reapply rather than try to amend or adjourn the applications.

As the tenant has already incurred two filing fees, the tenant may request a fee waiver when reapplying and reference this decision.

Both of the tenant's applications are 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: June 17, 2022

Residential Tenancy Branch