



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB, OPM, OPC, MNRL-S, MNDL-S, MNDCL-S, FFL

Introduction

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

- an Order of Possession for cause, pursuant to sections 47 and 55;
- an Order of Possession pursuant to a mutual agreement to end tenancy and section 55(2)(d);
- an Order of Possession pursuant to a fixed term tenancy agreement and section 55(2)(c);
- a Monetary Order for unpaid rent, pursuant to sections 26 and 67;
- a Monetary Order for damage or compensation, pursuant to section 67;
- a Monetary Order for damage, pursuant to section 67;
- authorization to retain the tenants' security deposit, pursuant to section 38; and
- authorization to recover the filing fee from the tenants, pursuant to section 72.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 11:10 a.m. in order to enable the tenants to call into this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord was advised that Rule 6.11 of the Residential Tenancy Branch Rules of Procedure prohibits the recording of dispute resolution hearings. The landlord testified she was not recording this dispute resolution hearing.

Per section 95(3) of the Act, the parties may be fined up to \$5,000.00 if they record this hearing: “A person who contravenes or fails to comply with a decision or an order made by the director commits an offence and is liable on conviction to a fine of not more than \$5 000.”

The landlord confirmed her email addresses for service of this decision.

Preliminary Issue – Vacant Rental Unit

At the outset of the hearing the landlord testified that the tenants vacated the rental unit approximately one week before the hearing.

I find that the landlord's application for Orders of Possession are moot since the tenants have moved out.

Section 62(4)(b) of the Act states an application should be dismissed if the application or part of an application for dispute resolution does not disclose a dispute that may be determined under the Act. I exercise my authority under section 62(4)(b) of the Act to dismiss the tenant's application for:

- an Order of Possession for cause, pursuant to sections 47 and 55;
- an Order of Possession pursuant to a mutual agreement to end tenancy and section 55(2)(d); and
- an Order of Possession pursuant to a fixed term tenancy agreement and section 55(2)(c).

Preliminary Issue- Withdrawal

All of the landlord's monetary claims are described in the application for dispute resolution as “undetermined amount of damages”. The landlord testified that she does not yet know the extent of the damages caused by the tenants. The landlord withdrew the remaining claims made in the landlord's application for dispute resolution because the sum of the damages is not yet known.

As the remaining portion of the landlord's application for dispute resolution has been withdrawn, I find that no further action is required with respect to the application. I dismiss the landlord's remaining claims with leave to reapply, except for the landlord's claim for the return of the filing fee, which is dismissed without leave to reapply pursuant

to section 72 of the *Act*. I make no findings on the merits of the withdrawn claims. Liberty to reapply is not an extension of any applicable limitation period.

Conclusion

The landlord's application for recovery of the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the landlord's application for dispute resolution 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: July 22, 2022

Residential Tenancy Branch