



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, MNDCT, FFT

Introduction

This hearing dealt with the tenants' application, filed on April 22, 2022, pursuant to the *Residential Tenancy Act* ("Act") for:

- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 62;
- a monetary order of \$7,039.00 for compensation under the *Act*, *Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the \$100.00 filing fee for this application, pursuant to section 72.

The landlord, the landlord's agent, and the two tenants ("tenant MS" and "tenant SK") 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 10 minutes from 11:00 a.m. to 11:10 a.m.

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

The landlord stated that her agent, who is her husband, had permission to represent her at this hearing. The landlord stated that she owns the rental unit, and she provided the rental unit address.

The landlord's agent and tenant MS identified themselves as the primary speakers for each party 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 landlord, the landlord’s agent, and the two tenants 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. Neither party made any accommodation requests.

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

At the outset of this hearing, tenant MS and the landlord’s agent both confirmed that the tenants vacated the rental unit on May 17, 2022, and the landlord took back possession of the rental unit. I informed both parties that the tenants’ application for an order to comply, which relates to an ongoing tenancy only, and to recover the \$100.00 filing fee, were both dismissed without leave to reapply. Both parties confirmed their understanding of same.

At the outset of this hearing, the landlord’s agent stated that he wanted to postpone this hearing because a family member had passed away and he and the landlord were calling into this hearing from the hospital. I informed the landlord and her agent that I did not deal with the landlord’s adjournment request at the hearing or in my decision because this hearing only lasted 10 minutes, the tenants’ application was dismissed without leave to reapply, except for their monetary claim, which was severed and dismissed with leave to reapply, as noted in this decision. The landlord’s agent confirmed his understanding of same.

Preliminary Issue – Severing the Tenants’ Monetary Application

The following RTB *Rules* are applicable and state:

2.3 Related issues

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

6.2 What will be considered at a dispute resolution hearing

The hearing is limited to matters claimed on the application unless the arbitrator allows a party to amend the application.

The arbitrator may refuse to consider unrelated issues in accordance with Rule 2.3 [Related issues]. For example, if a party has applied to cancel a Notice to End Tenancy or is seeking an order of possession, the arbitrator may decline to hear other claims that have been included in the application and the arbitrator may dismiss such matters with or without leave to reapply.

I informed both parties that Rules 2.3 and 6.2 of the RTB *Rules of Procedure* allow me to sever issues that are not related to the tenants' main urgent application.

I notified the tenants that they filed this application for an order to comply on April 22, 2022 and moved out of the rental unit shortly after on May 17, 2022. I informed them that they amended their application on July 29, 2022, shortly prior to this hearing on August 22, 2022.

I informed the tenants that they were provided with a priority hearing date, due to the urgent nature of their claim for an order to comply. I informed them that this was the most important, urgent issue to be dealt with at this hearing. The tenants confirmed their understanding of same.

I notified the tenants that their monetary application was dismissed with leave to reapply. I informed them that they received a priority hearing date for the order to comply claim, as the monetary claim is a non-urgent lower priority issue, and it can be severed at a hearing. This is in accordance with Rules 2.3 and 6.2 of the RTB *Rules* above. I notified the tenants that they could file a new application, if they want to pursue their monetary claim in the future. The tenants confirmed their understanding of same.

Conclusion

The tenants' application for a monetary order of \$7,039.00 for compensation under the *Act, Regulation* or tenancy agreement, is dismissed with leave to reapply.

The remainder of the tenants' 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: August 22, 2022

Residential Tenancy Branch