



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNRL, MNDL, MNDCL, FFL; CNC, OLC, MNRT, MNDCT, DRI, FFT

Introduction

This hearing dealt with the landlords' application, filed on May 2, 2022, pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession for cause, pursuant to section 55;
- a monetary order of \$2,500.00 for unpaid rent, for damage to the rental unit, and for compensation under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to recover the \$100.00 filing fee paid for their application, pursuant to section 72.

This hearing also dealt with the tenants' application, filed on April 22, 2022, pursuant to the *Act* for:

- cancellation of the landlords' One Month Notice to End Tenancy for Cause, dated April 14, 2022 ("1 Month Notice"), pursuant to section 47;
- an order requiring the landlords to comply with the *Act*, *Regulation* or tenancy agreement, pursuant to section 62;
- a monetary order of \$6,597.00 for the cost of emergency repairs, and for compensation under the *Act*, *Regulation* or tenancy agreement, pursuant to section 67;
- an order regarding a disputed additional rent increase of \$400.00, pursuant to section 43;
- authorization to recover the \$100.00 filing fee paid for their application, pursuant to section 72.

“Landlord EME” did not attend this hearing, which lasted approximately 15 minutes. Two of the three landlords (“landlord KE” and “landlord TWE”) and the two tenants (“tenant CDA” and “tenant RDA”) 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 began at 9:30 a.m. with me and the two landlords present. Tenant CDA called in late at 9:32 a.m. Tenant RDA called in late at 9:34 a.m. The hearing ended at 9:45 a.m.

The two landlords and the two tenants confirmed their names and spelling. Landlord KE provided his email address and tenant CDA provided her mailing address, for me to send this decision to both parties after this hearing.

Landlord KE stated that the two landlords co-own the rental unit. He provided the rental unit address. He identified himself as the primary speaker for the landlords at this hearing.

The two tenants identified tenant RDA as the primary speaker for the tenants 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 two landlords 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. They did not make any adjournment or accommodation requests. Both parties confirmed that they were ready to proceed with this hearing.

Tenant RDA stated that he had hearing issues. I asked him whether he required TTY, a translator, or other assistance at this hearing or whether he wanted to return at a future hearing date with hearing assistance. He claimed that he did not arrange for any hearing assistance prior to this hearing. He said that he did not require TTY, a translator, or any other hearing assistance at this hearing because he could hear me properly and he wanted to proceed with this hearing without assistance. I asked him to inform me if he required me to repeat or rephrase anything during this hearing and he confirmed his understanding of same.

Tenant RDA confirmed receipt of the landlords' application for dispute resolution hearing package. Landlord KE confirmed receipt of the tenants' application for dispute resolution hearing package. In accordance with section 89 of the *Act*, I find that the tenants were duly served with the landlords' application and the landlords were duly served with the tenants' application.

Pursuant to section 64(3)(c) of the *Act*, I amend the landlords' application to correct and separate landlord TWE's middle name and surname, which was mistakenly indicated as a hyphenated surname. Landlord TWE consented to this amendment during this hearing. I find no prejudice to either party in making this amendment.

At the outset of this hearing, landlord KE and tenant RDA both confirmed that the tenants vacated the rental unit in June 2022. Landlord KE stated that the landlords took back possession of the rental unit and the landlords did not require an order of possession against the tenants.

For the above reasons, I informed both parties that the landlords' application for an order of possession for cause and the tenants' application to cancel the landlords' 1 Month Notice and for an order to comply, were all dismissed without leave to reapply. Both parties confirmed their understanding of same.

Preliminary Issue – Severing both Parties' Monetary Applications

The following RTB *Rules* are applicable and state (my emphasis added):

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.***

Rules 2.3 and 6.2 of the RTB *Rules of Procedure* allow me to sever issues that are not related to both parties' applications.

I informed both parties that they were provided with a priority hearing date, due to the urgent nature of their claims related to the landlords' 1 Month Notice. I notified them that these were the central and most important, urgent issues to be dealt with at this hearing.

Both parties' monetary claims are not related to their applications regarding the 1 Month Notice. I notified both parties that their monetary claims are non-urgent lower priority issues, that could be severed at a hearing. This is in accordance with Rules 2.3 and 6.2 of the RTB *Rules* above. Both parties confirmed their understanding of same.

I notified both parties that their monetary claims were severed and dismissed with leave to reapply. Both parties confirmed their understanding of same.

Filing fees are discretionary awards issued by Arbitrators usually after a full hearing is conducted on the merits of both parties' applications, a decision is made by the Arbitrator, and both applicant parties are successful. I was not required to conduct a full hearing or make a decision on the merits of both parties' applications. Accordingly, both parties' applications to recover their \$100.00 filing fees, are dismissed without leave to reapply.

Conclusion

The landlords' application for an order of possession for cause and to recover the \$100.00 filing fee, is dismissed without leave to reapply. The remainder of the landlords' application is dismissed with leave to reapply.

The tenants' application to cancel the landlords' 1 Month Notice, an order requiring the landlords to comply with the *Act, Regulation* or tenancy agreement, and to recover the \$100.00 filing fee, is dismissed without leave to reapply. The remainder of the tenants' application 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: August 25, 2022

Residential Tenancy Branch