



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, MNDCT, RP, RPP (file *****151, submitted on May 12, 2022)
 OLC, MNDCT, RP, RPP (file *****906, submitted on May 18, 2022)

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The tenant applied on May 12, 2022 for:

- an order for the landlord to comply with the Act, the Residential Tenancy Regulation (the Regulation) and/or tenancy agreement, pursuant to section 62;
- a monetary order for compensation for damage or loss under the Act, the Regulation or tenancy agreement, pursuant to section 67;
- an order requiring the landlord to carry out repairs, pursuant to section 32; and
- an order for the landlord to return the tenant's personal property, pursuant to section 65.

The tenant applied on May 18, 2022 for:

- an order for the landlord to comply with the Act, the Residential Tenancy Regulation (the Regulation) and/or tenancy agreement, pursuant to section 62;
- a monetary order for compensation for damage or loss under the Act, the Regulation or tenancy agreement, pursuant to section 67;
- an order requiring the landlord to carry out repairs, pursuant to section 32; and
- an order for the landlord to return the tenant's personal property, pursuant to section 65.

Tenant PP (the tenant) and landlord BO (the landlord) attended the hearing. The tenant was assisted by advocates JT and SM. Witness for the landlord MK also attended. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

At the outset of the hearing all the parties were clearly informed of the Rules of Procedure, including Rule 6.10 about interruptions and inappropriate behaviour, and

Rule 6.11, which prohibits the recording of a dispute resolution hearing. All the parties confirmed they understood the Rules of Procedure.

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 \$5,000.00."

Preliminary Issue – Service

As both parties were present service of both notices of hearing was confirmed.

The tenant amended the application file *****151 to claim for an order to dispute a ten day notice to end tenancy and for an order for emergency repairs. The tenant attached the form RTB46 (the amendment form) to the landlord's front door office on May 26, 2022.

The landlord did not receive the amendment form.

Rule of Procedure 4.6 states:

As soon as possible, copies of the Amendment to an Application for Dispute Resolution form and supporting evidence must be produced and served upon each respondent by the applicant in a manner required by section 89 of the Residential Tenancy Act.

Section 89(1) of the Act states:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents];
- (f) by any other means of service provided for in the regulations.

Based on the tenant's undisputed testimony, I find the tenant did not serve the amendment in accordance with section 89(1) of the Act. Thus, I do not accept the amendment.

Preliminary Issue – Unrelated claims

Residential Tenancy Branch Rule of Procedure 2.3 states that claims made in an application for dispute resolution must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

It is my determination that the priority claim regarding the order requiring the landlord to carry out repairs is not sufficiently related to any of the tenant's other claims to warrant that they be heard together.

The tenant's other claims are unrelated in that the basis for them rests largely on facts not germane to the question of whether there are facts which establish the grounds for an order for repairs. I exercise my discretion to dismiss all of the tenant's claims in both applications with leave to reapply except the claim for an order for repairs which will be decided upon.

Settlement

Pursuant to section 63 of the Act, an arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all the issues not severed in both applications:

1. The landlord will inspect the rental unit's tub and toilet with a plumber and will conduct any necessary repairs by September 21, 2022.
2. The landlord will repair the rental unit's buzzer by September 21, 2022.
3. The landlord will program the buzzer for the tenant's phone number recorded on the cover page of this decision.

Conclusion

As the parties have reached a settlement, I make no factual findings about the merits of these applications.

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: September 20, 2022

Residential Tenancy Branch