



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, PSF, RP, FFT

Introduction and Preliminary Matters

On August 24, 2022, the Tenant applied for a Dispute Resolution proceeding seeking to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 47 of the *Residential Tenancy Act* (the “Act”), seeking a provision of services and facilities pursuant to Section 62 of the *Act*, seeking a repair Order pursuant to Section 32 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Tenant attended the hearing. The Landlord attended the hearing as well, with J.Z. attending as a translator for the Landlord. At the outset of the hearing, I explained to the parties that as the hearing was a teleconference, none of the parties could see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited, and they were reminded to refrain from doing so. As well, all parties in attendance provided a solemn affirmation.

The Tenant advised that the person attending the hearing was not her Landlord, as the person she dealt with was a male. The Landlord stated that she was the owner of the rental unit and that her name was as noted on the Application. J.Z. confirmed that this person was the Landlord as well. In addition, the tenancy agreement and notices to end tenancy, that the Tenant submitted as documentary evidence, were all in this person’s name. As such, I am satisfied that the person named as the Respondent on this Application was the Landlord of the rental unit and that the female attending the hearing claiming to be the Landlord was more likely than not the Landlord in this dispute.

During the hearing, service of documents was addressed, and the Tenant raised a concern because the address for service that the Landlord provided on the notices to end tenancy was for an address that she did not live at. The Tenant claimed that the address used was also tenanted. The Landlord confirmed that she did not live at this address, but she claimed that she could still receive mail there and it was a valid service address. The Landlord was cautioned from using a service address where someone else lives, and that if she did not receive documents that were served to this address, this could be at her detriment.

When reviewing submissions from the parties, the Tenant advised that she had attempted to end the tenancy because of a mold issue that rendered the rental unit unsafe to live. She stated that she moved out in June 2022 until remediation was completed, and that the Landlord changed the locks illegally in September 2022. Regardless, as she did not want to live in the rental unit anymore, she stated that she would like to withdraw the Application and has accepted the Notice because she has rented a new property as of September 15, 2022.

The Landlord advised that the Tenant still had personal property left in the rental unit. However, the Tenant stated that this property was destroyed by the mold that was present in the rental unit and that the restoration company stated that the damaged property would be disposed of.

Given that the Tenant advised that she would like to withdraw the Application and accept that the tenancy has ended by way of the Notice, I am satisfied that this request to withdraw the Application in full does not prejudice the Landlord because the Landlord served a Notice to end the tenancy and clearly wanted the rental unit back.

As such, I am satisfied that the tenancy ended as of the effective date on the Notice. However, the date noted on the Notice by the Landlord was September 17, 2022, which was incorrect. As rent was established as being due on the first day of each month, the effective end date of the tenancy would automatically self-correct on the Notice to September 30, 2022.

The parties were informed that they were at liberty to apply for any monetary losses they believed they were owed from the other party as a result of what may have occurred during this tenancy.

As the Tenant wanted to withdraw her Application, I am satisfied that she was not successful in these claims. Therefore, I find that the Tenant is not entitled to recover the \$100.00 filing fee paid for this Application.

Conclusion

I find that the Tenant's request to withdraw the Application in full does not prejudice the Landlord. As such, the Tenant's request to withdraw the Application in full was granted. I note this Decision does not extend any applicable timelines under the *Act*.

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: October 11, 2022

Residential Tenancy Branch