



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNL, MNDCT, RR, FFT**

Introduction

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

- cancellation of the landlords' 2 Month Notice to End Tenancy for Landlord's Use of Property (the "2 Month Notice") pursuant to section 49;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65; and
- authorization to recover the filing fee for this application from the landlords pursuant to section 72.

Both parties attended the hearing and were given an opportunity to be heard. The tenants were represented by counsel.

At the outset of the hearing the parties said that this tenancy has ended with the tenants vacating the rental unit on September 30, 2022. The tenants withdrew the portions of their application pertaining to cancellation of the 2 Month Notice.

Preliminary Issue – Jurisdiction

Section 58(2)(a) of the Act provides that:

- (2) Except as provided in subsection (4) (a), the director must not determine a dispute if any of the following applies:

(a) the amount claimed, excluding any amount claimed under section 51 (1) or (2) *[tenant's compensation: section 49 notice]*, 51.1 *[tenant's compensation: requirement to vacate]* or 51.3 *[tenant's compensation: no right of first refusal]*, for debt or damages is more than the monetary limit for claims under the *Small Claims Act*,

The issue is further delineated in Policy Guideline 27 which states in relevant parts:

If a claim for damage or loss exceeds the small claims limit, the director's policy is to decline jurisdiction. This ensures that more substantial claims are resolved in the BC Supreme Court, where more rigorous and formal procedures like document discovery are available. If an applicant abandons part of a claim to come within the small claims limit, the RTB will accept jurisdiction.

The tenants' monetary claim is for an amount in excess of \$35,000.00. Their evidence shows the amount sought is approximately \$150,000.00. The tenants have declined to abandon parts of their claim to come within the monetary limit of the Branch. I note that while the tenants have indicated lesser amounts on their application for dispute resolution, these are simply placeholder amounts entered due to the requirements and system limitations of the Branch's Dispute Management System and not reflective of their actual claim.

Based on the submissions I find the monetary claim of the tenants is for damages and loss not related to sections 51, 51.1 or 51.3 and are unrelated to a notice to end tenancy for landlord's use of property.

Therefore, I find the monetary claim of the tenants exceeds the jurisdiction of the Branch and I decline to hear the matter. The tenants remain at liberty to file their application with a court of competent jurisdiction for their claim.

Conclusion

The portions of the tenants' application seeking cancellation of the 2 Month Notice and recovery of their filing fees is withdrawn and dismissed without leave to reapply.

I decline jurisdiction for the balance of the application.

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 31, 2022

Residential Tenancy Branch