



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, MNR-DR; OPR-DR, MNR-DR; CNR, OLC, MNDCT, FFT

Introduction

This hearing dealt with the landlord's application against tenant YL ("tenant"), filed on June 8, 2022, pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession for unpaid rent, pursuant to section 55; and
- a monetary order for unpaid rent of \$2,880.00, pursuant to section 67.

This hearing dealt with the landlord's application against "tenant DC," filed on June 8, 2022, pursuant to the *Act* for:

- an order of possession for unpaid rent, pursuant to section 55; and
- a monetary order for unpaid rent of \$2,760.00, pursuant to section 67.

This hearing also dealt with both tenants' application, filed on May 27, 2022, pursuant to the *Act* for:

- cancellation of the landlord's two Ten Day Notices to End Tenancy for Unpaid Rent or Utilities, both dated May 22, 2022 ("two 10 Day Notices"), pursuant to section 46;
- 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 \$24,745.00 for compensation under the *Act*, *Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the \$100.00 filing fee paid for their application, pursuant to section 72.

The landlord's agent and the tenant 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 73 minutes.

This hearing began at 9:30 a.m. and ended at 10:43 a.m. The tenant stated that tenant DC was trying to call into this hearing from overseas, but she could not hear anything. Someone called into this hearing at approximately 9:37 a.m. and 9:40 a.m., but when I asked who joined the hearing, no one responded.

I monitored the teleconference line throughout this hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord's agent, the tenant, and I were the only people who called into this teleconference.

The landlord's agent and the tenant confirmed their names and spelling. They both provided their email addresses for me to send this decision to them after the hearing.

The landlord's agent said that he had permission to speak on behalf of the landlord named in the three applications, at this hearing. He stated that the landlord owns the rental unit. He confirmed the rental unit address.

The tenant stated that she had permission to represent tenant DC at this hearing (collectively "tenants").

Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* ("Rules") does not permit recordings of any RTB hearings by any participants. At the outset of this hearing, the landlord's agent and the tenant both separately affirmed, under oath, that they would not record this hearing.

I explained the hearing and settlement processes to both parties. I informed them that I could not provide legal advice to them, and they could hire a lawyer for same. I notified them that I could not act as their agent or advocate. They had an opportunity to ask questions, which I answered. Neither party made any adjournment or accommodation requests. Both parties confirmed that they were ready to proceed with this hearing. Both parties were given multiple opportunities to settle all three applications and after engaging in lengthy settlement discussions throughout this hearing, declined to settle.

At the outset of this hearing, both parties confirmed that the tenants vacated the rental unit. The tenant stated that the tenants vacated on February 8, 2022. The landlord's agent stated that the landlord did not require an order of possession against the tenants. I informed both parties that the landlord's application for an order of possession for unpaid rent and the tenants' application to cancel the 10 Day Notice, an

order to comply, and to recover the \$100.00 filing fee, 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.

2.9 No divided claims

An applicant may not divide a claim.

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' main and urgent 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 order of possession, cancellation of the landlord's two 10 Day Notices, and an order to comply. I notified them that these were the central and most important, urgent issues to be dealt with at this hearing. Both parties filed their applications related to the 10 Day Notices in May and June 2022, after the tenants vacated the rental unit in February 2022.

The landlord's agent stated that the landlord increased her monetary claims to over \$10,000.00 for unpaid rent, by providing a monetary order worksheet. He claimed that the landlord initially applied for rent for March, April and May 2022 in her application, but the tenants owe additional rent for June, July and August 2022. He said that the

landlord did not file an amendment for same. He explained that the tenants also owe utilities and storage costs.

I notified the landlord's agent that storage costs are not related to the landlord's application for unpaid rent. I informed him that the landlord did not apply or amend her applications to add monetary claims for a future loss of rent. Rule 2.9 of the RTB *Rules* does not permit a party to divide or split their claims. I informed him that the landlord could not split her claims, and deal with some monetary claims for unpaid rent at this hearing and future loss of rent at a future hearing, regarding the same parties and tenancy. He confirmed his understanding of same.

The tenants filed an amendment to add a monetary claim of \$24,745.00, which was received by the RTB on September 20, 2022, shortly prior to this hearing on October 6, 2022. The tenant confirmed that the tenants' monetary claim was related to asbestos contamination at the rental unit. I informed the tenant that this monetary claim was not related to both parties' main applications for unpaid rent and the 10 Day Notices. She confirmed her understanding of same.

I notified both parties that their monetary applications were non-urgent lower priority issues, that could be severed at a hearing. This is in accordance with Rules 2.3, 2.9, and 6.2 of the RTB *Rules* above. I informed both parties that the landlord's monetary applications for unpaid rent and the tenants' monetary application, were both dismissed with leave to reapply. I notified both parties that they can file new applications and pay filing fees, if they want to pursue their monetary claims in the future. Both parties confirmed their understanding of same.

Further, I informed both parties that this hearing lasted 73 minutes, which exceeded the 60-minute maximum hearing time, so there was also insufficient time to deal with both parties' lengthy monetary applications and evidence at this hearing. I was required to repeat and rephrase information and answer the same questions repeatedly throughout this hearing in order to explain the above information.

Conclusion

The landlord's two applications for monetary orders for unpaid rent are dismissed with leave to reapply.

The remainder of the landlord's two applications are dismissed without leave to reapply.

The tenants' monetary application for \$24,745.00 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: October 06, 2022

Residential Tenancy Branch