



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, RP, PSF, OLC, FFT

Introduction

The Tenants seek the following relief under the *Residential Tenancy Act* (the “Act”):

- an order pursuant to s. 67 for monetary compensation for loss or other money owed;
- an order pursuant to s. 32 for repairs to the rental unit;
- an order pursuant to s. 62 that the Landlord provide services or facilities;
- an order pursuant to s. 62 that the Landlord comply with the *Act*, Regulations, and/or the tenancy agreement; and
- return of their filing fee pursuant to s. 72.

M.H. and C.D. appeared as the Tenants. S.D. appeared as agent for the Landlord and was joined by B.O. as the building’s manager.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

Dismissal of the Tenants’ Application

At the outset of the hearing, the Tenants advised that there were issues with respect to the service of their application materials, which they say were caused by Canada Post. I am advised by the Tenants that they sent a registered mail package to the Landlord’s address on November 4, 2022, though it was redirected such that it did not get to the Landlord until November 10, 2022.

The Landlord's agent confirmed receipt of the registered mail, though says it only contained the Notice of Dispute Resolution and was received on November 14, 2022.

Rule 3.1 of the Rules of Procedure requires applicants to serve their application within three days of receiving it from the Residential Tenancy Branch. As per Rule 3.14, must serve all the evidence upon which they intend to rely at least 14-days before the hearing.

The Tenants provided substantial documentary evidence to the Residential Tenancy Branch, some of which is duplicated. In total, 595 files were provided with a total size of 6.72 GB of data. The Landlord's agent denies receipt of the Tenant's documentary evidence.

Fundamentally, however, the Tenants' application is pled in broad and nebulous terms. Section 59(2)(b) of the *Act* requires an application to be sufficiently particularized, failing which the director may refuse to accept the application under s. 59(5). The current application is written as a laundry list of issues the Tenants raise with respect to the Landlord stretching back to the beginning of the tenancy.

The issue with applications of this nature is that hearings before the Residential Tenancy Branch are generally scheduled for one-hour and conducted on a summary basis. Rule 2.2 of the Rules of Procedure limits claims to what is stated in the application. When pleadings are unclear, the relief sought becomes a moving target. This raises procedural fairness issues such that limiting submissions to those relevant to the claims stated in the Notice of Dispute Resolution is impossible.

The Tenants requested an adjournment to ensure their evidence was organized and served. I decline to grant the request because it does not address the fundamental issue with respect to the application's pleadings. Documentary evidence does not correct the application as pled by the Tenants. The Landlord's agent indicated a willingness to proceed with the hearing, despite late service of the Notice of Dispute Resolution. However, this too does not address the procedural fairness that may arise when pleadings are not sufficiently particularized.

Under the circumstances, I dismiss the application with leave to reapply pursuant to s. 59(5) of the *Act*. I appreciate the Landlord's desire to have the matter dealt with. However, the issues with respect to the application are so fundamental that it would be inappropriate to proceed.

I find that the Tenants shall bear the cost of their filing fee, such that their claim under s. 72 of the *Act* 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: November 21, 2022

Residential Tenancy Branch