



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, PSF, OLC

Introduction

This hearing dealt with the tenant's application, filed on September 2, 2022, pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order of \$1,950.00 for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 67;
- an order requiring the landlord to provide services or facilities required by law, pursuant to section 65; and
- an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement, pursuant to section 62.

The landlord, the landlord's English language translator, the tenant, and the tenant's support person 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 began at 9:30 a.m. The tenant and his support person left the hearing from 9:40 a.m. to 9:42 a.m. The tenant stated that he pressed the wrong button and his telephone accidentally disconnected from the hearing. I did not discuss any evidence with the landlord or her translator in the absence of the tenant and his support person. This hearing ended at 10:40 a.m. This hearing lasted approximately 70 minutes total, which is more than the 60-minute maximum hearing time.

I informed the tenant that I had difficulty hearing him during this hearing, due to him using speakerphone on his telephone, since it caused echoing and feedback. The tenant stated that he could not hear properly, unless he used speakerphone. The tenant agreed to mute his telephone line, when he was not speaking, so I could hear better without the echoing or feedback. I informed him that I might miss important

information if I could not hear him properly, while he was on speakerphone. The tenant affirmed his understanding of and agreement to same. He stated that he would remain on speakerphone during this hearing.

All hearing participants confirmed their names and spelling. The landlord provided her email address, and the tenant provided his mailing address, for me to send this decision to both parties after the hearing.

The landlord confirmed that she owns the rental unit. She provided the rental unit address. She said that her translator had permission to assist her at this hearing with English language translation.

The tenant confirmed that his support person had permission to assist him at this hearing. The tenant's support person stated that she is a constituent assistant for the MLA office, and she was only present to observe and assist the tenant, not to testify at this hearing.

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

I explained the hearing and settlement processes, and the potential outcomes and consequences, to both parties. I informed them that I could not provide legal advice or act as their agent or advocate. Both parties 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, they wanted to settle this application, and they did not want me to make a decision.

Preliminary Issue – Service of Documents

The landlord confirmed receipt of the tenant's application for dispute resolution and notice of hearing. In accordance with section 89 of the *Act*, I find that the landlord was duly served with the tenant's application and notice of hearing.

The landlord stated that she did not receive the tenant's evidence. The tenant stated that he did not serve his evidence to the landlord. He said that the landlord did not want his letter. I informed the tenant that his evidence, which was 8 pages, not a 1-page letter, was uploaded to the RTB online dispute access site late on January 12, 2023 and

January 16, 2023, both less than 14 days prior to this hearing, contrary to Rule 3.14 of the RTB Rules.

I informed both parties that I could not consider the tenant's evidence in my decision because it was not served to the landlord, as required by RTB Rules 2.5 and 3.1, and it was uploaded to the RTB online dispute access site late, contrary to Rule 3.14. The tenant affirmed his understanding of same. He stated that he wanted to proceed with this hearing and not reapply and serve his evidence, when I offered him the opportunity to do so. However, I was not required to consider the tenant's evidence or make a decision because both parties voluntarily settled this application at this hearing.

The tenant confirmed receipt of the landlord's evidence. In accordance with section 88 of the Act, I find that the tenant was duly served with the landlord's evidence.

Preliminary Issue – Amendments to Tenant's Application

Pursuant to section 64(3)(c) of the Act, I amend the tenant's application to remove the basement ("bsmt") description for the rental unit address. The landlord consented to this amendment during this hearing. The tenant did not dispute same during this hearing. I find no prejudice to either party in making this amendment.

At the outset of this hearing, the tenant affirmed that he vacated the rental unit on September 17, 2022, shortly after filing his application on September 2, 2022. The tenant stated that he did not require an order to comply or to provide services or facilities, which are claims related to an ongoing tenancy only. He said that he was only pursuing his monetary application at this hearing.

Preliminary Issue – Inappropriate Behaviour by the Landlord during this Hearing

Rule 6.10 of the RTB Rules states the following:

6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing
Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.

Throughout this hearing, the landlord repeatedly asked me the same questions, argued with me, continued to repeat irrelevant information, and had lengthy discussions with her translator while refusing to answer my questions. I repeatedly cautioned the landlord and asked her to stop this inappropriate behaviour, but she continued.

This hearing lasted longer because of the above repeated interruptions, arguments, discussions, and inappropriate behaviour of the landlord.

However, I permitted the landlord to attend this full hearing, despite her inappropriate behaviour, in order to allow her to settle this application, as requested by her at the outset of this hearing.

Settlement Terms

Pursuant to section 63 of the *Act*, the 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 and orders. During the hearing, the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute and arising out of this tenancy.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time and arising out of this tenancy:

1. The landlord agreed to pay the tenant \$500.00 by way of a cheque, to be picked up by the tenant on January 19, 2023, at 2:00 p.m., at the landlord's house;
 - a. Upon receipt of the cheque from the landlord, the tenant agreed to immediately provide the landlord with a receipt for payment;
2. The tenant agreed that this settlement agreement constitutes a final and binding resolution of his application and any issues arising out of this tenancy;
3. Both parties agreed that they will not initiate any future claims or applications against each other at the RTB, with respect to any issues arising out of this tenancy.

These particulars comprise the full and final settlement of all aspects of this dispute and arising out of this tenancy. Both parties affirmed at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties affirmed that they understood and agreed that the above terms are legal, final, binding, and enforceable, which settle all aspects of this dispute and arising out of this tenancy.

The terms and consequences of the above settlement were reviewed in detail, with both parties during this lengthy 70-minute hearing. Both parties were provided with ample and additional time during this hearing, to ask questions, think about, negotiate, and discuss the settlement terms in detail with each other.

The landlord affirmed that her translator assisted her with this settlement during this hearing. The tenant affirmed that his support person assisted him with this settlement during this hearing.

Conclusion

I order both parties to comply with all of the above settlement terms.

In order to implement the above settlement and as discussed with both parties during this hearing, I issue a monetary Order in the tenant's favour in the amount of \$500.00. I deliver this Order to the tenant in support of the above agreement for use **only** in the event that the landlord fails to pay the tenant \$500.00 as per condition #1 of the above agreement. The landlord must be served with a copy of this Order. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: January 19, 2023

Residential Tenancy Branch