



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNDL, FFL**

Introduction

The words tenant and landlord in this decision have the same meaning as in the *Residential Tenancy Act*, (the "Act") and the singular of these words includes the plural.

This hearing dealt with an application filed by the landlord pursuant the *Residential Tenancy Act* (the "Act") for:

- A monetary order for damages caused by the tenant or the tenant's guests pursuant to sections 7 and 67; and
- Authorization to recover the filing fee from the other party pursuant to section 72.

Both tenants and the landlord's agent attended the hearing. The tenants acknowledged service of the landlord's Notice of Dispute Resolution Proceedings package and had no issues with timely service of documents.

The parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Rule 6.11 of the Residential Tenancy Branch Rules of Procedure ("Rules") and that if any recording was made without my authorization, the offending party would be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation and potential fine under the Act.

Each party was administered an oath to tell the truth and they both confirmed that they were not recording the hearing.

Settlement Reached

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 or an order. I advised the parties on several occasions that there is no obligation to resolve the dispute through

settlement and that if either party did not wish to resolve this matter through settlement, I was prepared to make a decision based on the evidence before me. During the hearing the parties discussed the issues between them, turned their minds to compromise and achieved the following resolution of the primary issues identified in their dispute.

1. By the end of February 2023, the tenants will replace the barrier around the hot water tank as close as possible to the original one that they removed. The landlord will arrange with the new occupants of the rental unit for a time and date for the replacement to be constructed.
2. The parties agree that the landlord has received compensation in the amount of \$393.50 in full and final satisfaction of the claim to replace the panels on the stainless-steel fridge.
3. The parties agree that the arbitrator will make a final and binding decision regarding the filing fee of \$100.00.

Both parties testified that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute, with the exception of the filing fee. As the parties resolved matters by agreement, I make no findings of fact or law with respect to the dispute before me.

Issue(s) to be Decided

Who should be responsible for the filing fee?

Analysis

Section 72 of the Act states:

Director's orders: fees and monetary orders

72 (1)The director may order payment or repayment of a fee under section 59 (2) (c) [*starting proceedings*] or 79 (3) (b) [*application for review of director's decision*] by one party to a dispute resolution proceeding to another party or to the director.

The decision to award the filing fee is fully discretionary upon the director, pursuant to section 72

The parties settled this dispute without any finding of fact or law made by the director's delegate. As such, I cannot make a determination about whose position had merit or whether the applicant has successfully proven her case on a balance of probabilities.

The only equitable way to resolve the issue of the filing fee is to have the parties split the cost of the filing fee. As such, pursuant to section 72, I award the landlord half the filing fee, or \$50.00.

Conclusion

The application seeking a monetary order was settled in the terms as recorded above pursuant to section 63 of the Act.

The landlord is awarded a monetary order in the amount of \$50.00 to recover half the filing fee pursuant to section 72.

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 31, 2023

Residential Tenancy Branch