



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DENMAX HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes DRI-ARI-C, FFT

Introduction

This hearing dealt with the tenants' application, filed on September 8, 2022, pursuant to the *Residential Tenancy Act* ("Act") for:

- an order regarding a disputed additional rent increase of \$2,345.00 for capital expenditures, pursuant to section 43; and
- authorization to recover the \$100.00 filing fee paid for this application, pursuant to section 72.

The landlord's two agents, "landlord AM" and "landlord DP," and the two tenants, "tenant MM" and "tenant LF," 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 10 minutes from 11:00 a.m. to 11:10 a.m.

All hearing participants provided their names and spelling. Landlord AM and tenant MM provided their email addresses for me to send a copy of this decision to both parties after the hearing.

Landlord AM confirmed that she is a leasing manager, employed by the landlord company ("landlord") named in this application and that she had permission to speak on its behalf. She stated that the landlord owns the rental unit. She confirmed the landlord's name and provided the rental unit address. She identified herself as the primary speaker for the landlord at this hearing and landlord DP agreed to same.

Landlord DP confirmed that he is an assistant leasing manager, employed by the landlord, and that he had permission to speak on its behalf.

Tenant MM identified herself as the primary speaker for both tenants at this hearing and tenant LF agreed to same.

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, all hearing participants separately affirmed, under oath, that they would not record this hearing.

I explained the hearing and settlement processes to both parties. They had an opportunity to ask questions. Neither party made any adjournment or accommodation requests. Both parties were provided with an opportunity to discuss settlement at this hearing and declined to do so.

Landlord AM confirmed receipt of the tenants’ application for dispute resolution hearing package and tenant MM confirmed receipt of the landlord’s evidence. In accordance with sections 88 and 89 of the *Act*, I find that the landlord was duly served with the tenants’ application and both tenants were duly served with the landlord’s evidence.

Preliminary Issue – Dismissal of Tenants’ Application

At the outset of this hearing, tenant MM confirmed that the tenants applied to dispute a rent increase for capital expenditures. She stated that the landlord did not increase the tenants’ rent for capital expenditures. She claimed that the tenants applied for this relief in error and did not amend their application to correct it.

Landlord AM agreed that the landlord received the tenants’ application disputing a rent increase for capital expenditures. She agreed that the landlord did not increase the tenants’ rent for capital expenditures.

Pursuant to section 59(5)(a) of the *Act*, I can refuse to accept an application if it does not disclose a dispute that may be determined. The tenants are the applicants, and have the burden of proof, on a balance of probabilities, to apply for the correct claims, provide sufficient particulars and evidence of their claims, and prove their claims at this hearing.

The tenants applied for the incorrect claim in their application, which was not amended prior to this hearing. Both parties agreed at this hearing, that the tenants did not receive a rent increase for capital expenditures from the landlord.

The tenants did not file or serve an RTB amendment form to the landlord, prior to this hearing. The tenants did not request an amendment during this hearing.

The tenants filed this application on September 8, 2022, and this hearing occurred on January 26, 2023, over 4.5 months later. Landlord AM confirmed receipt of the tenants' application in September 2022. The tenants had ample time to know the full details of their application, including their claims, and to amend their application and serve notice to the landlord, prior to this hearing, but failed to do so.

I informed the tenants that their entire application, including the \$100.00 application filing fee, was dismissed without leave to reapply. The tenants affirmed their understanding of same.

Neither party disputed my decision during this hearing. Neither party asked any questions about my decision, when I offered them the opportunity to do so, during this hearing.

Conclusion

The tenants' entire 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: January 26, 2023

Residential Tenancy Branch