



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNL OLC MNDCT PSF RR FFT

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for the following:

1. To cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property (2 Month Notice)
2. For a monetary claim in the amount of \$2,100 for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement
3. For an order directing the landlord to comply with the Act, regulation or tenancy agreement
4. For an order directing the landlord to provides services or facilities agreement upon but not provided
5. For a rent reduction
6. For the recovery of the filing fee

The tenants and the landlord attended the teleconference hearing and were affirmed. Both parties were cautioned for interrupting during the hearing. Due to the landlord raising an issue of service, service issues will be addressed below. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matters

At the outset of the hearing, the tenants confirmed that they have since vacated the rental unit on November 15, 2022 since filing their application on October 7, 2022. The Notice of Dispute Resolution Hearing document is dated October 21, 2022 (Notice of Hearing). The landlord claims they are not sure why the tenants applied for dispute resolution and accordingly, the tenants were asked to present their evidence regarding service of the Application and all amendments on the landlord.

The tenants testified that on October 21, 2022 at 2:35PM the tenants served their evidence in the mailbox of the landlord and the landlord confirming receiving the application. The tenants were then asked how they served their amendment for the cost of garbage and the tenants stated around the same time. At this point in the hearing, the parties were advised that I was not satisfied on service as the amendment was not filed until November 17, 2022, which was not around the same time and almost one month after the October 21, 2022 Notice of Hearing was created, which required service on the landlord within 3 days of October 21, 2022.

Analysis

Both parties have the right to a fair hearing. I find the landlord would not have been aware of the amendments, of which there were three by the tenants, unless the landlord was properly served with those amendments. The tenants have failed to convince me that they properly served the landlord as they testified that the landlord was served around the same time as the original application, which is inconsistent with the amendment being filed almost one month later.

Given the above, **I dismiss this application, with leave to reapply**, due to a service issue.

I do not grant the filing fee due to the service issue.

Conclusion

The tenants' application is dismissed with leave to reapply due to a service issue.

This decision does not extend any applicable time limits under the Act.

This decision will be emailed to the tenants and sent by regular mail to the landlord.

I do not grant the filing fee due to the service issue.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: February 13, 2023