



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNDCT, LRE, OLC, FFT; CNC, OLC, FFT

Introduction

This hearing dealt with the tenant's first application, filed on October 5, 2022, pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order of \$1,500.00 for compensation under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 67;
- an order restricting the landlords' right to enter the rental unit, pursuant to section 70;
- an order requiring the landlords to comply with the *Act*, *Regulation* or tenancy agreement, pursuant to section 62; and
- authorization to recover the \$100.00 filing fee paid for her first application, pursuant to section 72.

This hearing also dealt with the tenant's second application, filed on October 25, 2022, pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlords' One Month Notice to End Tenancy for Cause, dated October 25, 2022 and effective December 1, 2022 ("1 Month Notice"), pursuant to section 47;
- an order requiring the landlords to comply with the *Act*, *Regulation* or tenancy agreement, pursuant to section 62; and
- authorization to recover the \$100.00 filing fee paid for her second application, pursuant to section 72.

The two landlords, landlord KB ("landlord") and "landlord CC," and the tenant 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 23 minutes from 1:30 p.m. to 1:53 p.m.

All hearing participants confirmed their names and spelling. Landlord CC and the tenant provided their email addresses for me to send this decision to both parties after the hearing.

The landlord identified herself as the primary speaker for the landlords at this hearing and landlord CC 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, and the potential outcomes and consequences, to both parties. I informed them that I could not provide legal advice to them. They 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. Both parties were given multiple opportunities to settle this application but declined to do so.

The landlord confirmed receipt of the tenant’s two applications for dispute resolution hearing packages. In accordance with section 89 of the *Act*, I find that both landlords were duly served with the tenant’s two applications.

Pursuant to section 64(3)(c) of the *Act*, I amend the tenant’s first application to correct the spelling of landlord CC’s first name. I amend the tenant’s second application to include the tenant’s first name, as the tenant only included her middle name and surname. Both parties consented to these amendments during this hearing. I find no prejudice to either party in making these amendments.

Preliminary Issue – Ongoing Tenancy Claims

At the outset of this hearing, the tenant said that she moved out of the rental unit on November 30, 2022. She said that she did not want to pursue any of the claims in her two applications, except for her monetary claim for \$1,500.00 in her first application.

The landlord agreed that the tenant vacated the rental unit on November 30, 2022. She said that the landlords took back possession of the rental unit. She affirmed that the landlords did not require an order of possession against the tenant.

I informed both parties that the entirety of the tenant's two applications, including the \$100.00 filing fees paid for both applications, were dismissed without leave to reapply, except for the tenant's monetary claim for \$1,500.00 in her first application. Both parties affirmed their understanding of same.

I notified both parties that all of the claims in the tenant's two applications, except for the monetary claim in her first application, relate to an ongoing tenancy and this tenancy was over. I informed them that the landlords would not be issued an order of possession against the tenant. Both parties affirmed their understanding of same.

Preliminary Issue – Severing the Tenant's Monetary Claim

The following RTB *Rules* state the following (my emphasis added):

2.3 Related issues

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

6.2 What will be considered at a dispute resolution hearing

The hearing is limited to matters claimed on the application unless the arbitrator allows a party to amend the application.

*The arbitrator may refuse to consider unrelated issues in accordance with Rule 2.3 [Related issues]. **For example, if a party has applied to cancel a Notice to End Tenancy or is seeking an order of possession, the arbitrator may decline to hear other claims that have been included in the application and the arbitrator may dismiss such matters with or without leave to reapply.***

I informed both parties that Rules 2.3 and 6.2 of the RTB *Rules* allow me to sever issues that are not related to the tenant's main and urgent applications. The tenant applied for 7 total claims in 2 different applications.

I informed both parties that the tenant was provided with a priority hearing date, due to the urgent nature of her claims related to an ongoing tenancy and to cancel the 1 Month

Notice. I notified them that these were the central and most important, urgent issues to be dealt with at this hearing.

The tenant claimed that she did not want to amend her application prior to this hearing because she thought that she would lose this hearing date and she did not want to start the process again.

I informed both parties that the tenant filed her applications on October 5 and 25, 2022 and did not amend her applications to remove the ongoing tenancy claims, prior to this hearing. I notified both parties that the tenant moved out on November 30, 2022, shortly after filing her applications in October 2022, instead of waiting for this hearing to decide the outcome of the 1 Month Notice and whether this tenancy would continue or end.

The tenant's monetary claim is not related to her main urgent applications to cancel the 1 Month Notice or for the ongoing tenancy claims. I notified both parties that the tenant's monetary claim was a non-urgent lower priority issues, that could be severed at a hearing. This is in accordance with Rules 2.3, 2.9, and 6.2 of the RTB *Rules* above. Both parties affirmed their understanding of same.

I informed both parties that the tenant's monetary claim for \$1,500.00 in her first application, was dismissed with leave to reapply. I notified both parties that the tenant can file a new application and pay a new filing fee, if she wants to pursue this monetary claim in the future. Both parties affirmed their understanding of same.

Further, there was insufficient time to deal with the tenant's monetary claim for \$1,500.00 in her first application, at this hearing. Both parties provided voluminous documents and digital recordings as evidence for this hearing. Both parties were given multiple opportunities to discuss settlement of this monetary claim during this hearing but declined to settle.

Conclusion

The tenant's first application for a monetary order of \$1,500.00 for compensation under the *Act, Regulation* or tenancy agreement, is dismissed with leave to reapply.

The remainder of the tenant's two applications are 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: February 17, 2023

Residential Tenancy Branch