



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **CNR-MT MNDCT RR RP**

Introduction

This hearing was convened as a result of the Tenants' application for dispute resolution ("Application") under the *Residential Tenancy Act* (the "Act"). The Tenants seek:

- an order to allow an extension of time for the Tenants to dispute a 10 Day Notice to End Tenancy for Unpaid Rent and/or Utilities ("10 Day Notice") pursuant to section 66;
- if an order for an extension of time for the Tenants to dispute the 10 Day Notice is granted, then an order to cancel the 10 Day Notice pursuant to section 46;
- an order to allow the Tenants to reduce rent for repairs, services or facilities agreed upon but not provided by the Landlord pursuant to section 67;
- an monetary order for compensation or other money owed by the Landlord to the Tenants pursuant to section 67; and
- an order for the Landlord to complete repairs to the rental unit pursuant to section 32.

The Landlord did not attend this hearing scheduled for 9:30 am. I left the teleconference hearing connection open for the entire hearing, which ended at 9:49 am, in order to enable the Landlord to call into this teleconference hearing. The Tenants ("KW" and "JF") attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I also confirmed from the teleconference system that KW, JF and I were the only ones who had called into this teleconference.

KW stated she served the Notice of Dispute Resolution Proceeding and the Tenants' evidence ("NDRP Package") on the Landlord in person on November 10, 2022. Based

on the undisputed testimony of KW, I find the NDRP Package was serve on the Landlord in person in accordance with the provisions of sections 88 and 89 of the Act.

Preliminary Matter – Severance and Dismissal of Tenants' Claim

The Application included a claim for a monetary order for compensation or other money owed by the Landlord to the Tenants (the "Tenants' Other Claim").

Rule 2.3 of the RoP states:

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.

Where a claim or claims in an application are not sufficiently related, I may dismiss one or more of those claims in the application that are unrelated. Hearings before the RTB are generally scheduled for one hour and Rule 2.3 is intended to ensure disputes can be addressed in a timely and efficient manner. I find the Tenants' claim for an extension of time to make the Application and, if granted, an order for cancellation of the 10 Day Notice and an order for reduced rent to be the primary issues before me. As such, I will sever the Tenants' Other Claim from the Application. After determining whether the 10 Day Notice should be cancelled, I will dismiss the Tenants' Other Claim, with or without leave to reapply to reapply, as appropriate.

Issues to be Decided

Are the Tenants entitled to:

- an extension of time to make the Application to dispute the 10 Day Notice?
- if an extension of time is granted for making the Application to dispute the 10 Day Notice is granted, are the Tenants entitled to cancellation of the 10 Day Notice?
- an order to allow the Tenants to reduce rent for repairs, services or facilities agreed upon by not provided by the Landlord?
- if the Tenants are not entitled to cancellation of the 10 Day Notice, is the Landlord entitled to an Order of Possession pursuant to section 55(1) of the Act?

Preliminary Matter – Tenants have Vacated the Rental Unit

KW stated the Tenants obtained a State of Title Certificate for the rental unit and discovered the Landlord was not the owner of the rental unit. KW stated that it appeared the Landlord did not have right to rent the rental unit to the Tenants. KW stated the Tenants vacated the rental unit on February 13, 2022. As the Tenants have vacated the rental unit, the Tenants' claims for an extension of time to dispute the 10 Day Notice, and if granted, cancellation of the 10 Day Notice and the claim for a reduction of rent are no longer required. As such, I find the Application does not disclose any dispute that may be determined by me under the Act. As such, I dismiss the Application without leave to reapply.

The Tenants' Other Claim is dismissed with leave to reapply.

Conclusion

The Application is dismissed in its entirety without leave to reapply.

The Tenants' Other Claim is dismissed with leave to reapply.

Dated: March 6, 2023

Residential Tenancy Branch