



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR, PSF, LRE, LAT, OLC

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlord's Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, dated November 5, 2022, and effective November 30, 2022 ("10 Day Notice"), pursuant to section 46;
- an order requiring the landlord to provide services or facilities required by law, pursuant to section 65;
- an order restricting the landlord's right to enter the rental unit, pursuant to section 70;
- authorization to change the locks to the rental unit, pursuant to section 70; and
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 62.

The landlord, the two tenants, the tenants' articling student agent KC ("tenants' agent"), the articling student's supervising lawyer PC, and two other articling students NR and BN, 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 58 minutes. This hearing began at 9:30 a.m. An unidentified person called in from 9:44 a.m. to 9:46 a.m. She provided a different file number for a different hearing but left the hearing before I could confirm her name or different hearing date and time. She did not hear any evidence from either party. This hearing ended at 10:28 a.m.

All hearing participants confirmed their names and spelling. The landlord and the tenants' agent provided their email addresses for me to send this decision to both parties after the hearing.

The landlord stated that he owns the rental unit. He provided the rental unit address.

Both tenants confirmed that their agent had permission to represent them at this hearing. They identified their agent as the primary speaker for the tenants at this hearing.

The tenants' agent affirmed that her supervising lawyer and the two other articling students were only present to observe this hearing. They did not provide testimony at this hearing. The landlord consented 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, the landlord affirmed, under oath, that he would not record this hearing. At the outset of this hearing, the two tenants and their agent separately affirmed, under oath, that neither they, nor the supervising lawyer or the two other articling students, would record this hearing.

I explained the hearing and settlement processes, and the potential outcomes and consequences, to both parties. I informed both parties that I could not provide legal advice to them or act as their agent or advocate. Both parties 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 and they wanted to settle this application.

The landlord confirmed receipt of the tenants' application for dispute resolution hearing package. The tenants' agent 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.

Severing the Tenants' Remaining Application Claims

The following RTB *Rules* are applicable and state (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.***

At the outset of this hearing, I informed both parties that Rules 2.3 and 6.2 of the RTB *Rules of Procedure* allow me to sever issues that are not related to the tenants' main application. The tenants applied for 5 different claims in this application.

I informed both parties that the tenants were provided with a priority hearing date, due to the urgent nature of their claim to cancel the 10 Day Notice. I notified them that this was the central and most important, urgent issue to be dealt with at this hearing. They affirmed their understanding of same.

I informed both parties that the tenants' remaining claims in this application, relate to an ongoing tenancy only. I notified them that if this tenancy continued, these claims would be dismissed with leave to reapply. I informed them that if this tenancy ended, these claims would be dismissed without leave to reapply. I notified them that these remaining claims were non-urgent lower priority issues, and they could be severed at a hearing. This is in accordance with Rules 2.3 and 6.2 of the RTB Rules above. They affirmed their understanding of same.

I informed both parties that after 58 minutes of this 60-minute maximum hearing time, there was insufficient time to deal with the tenants' remaining 4 claims at this hearing. Both parties submitted voluminous documents and evidence for this hearing.

I informed the tenants and their agent that the tenants' remaining 4 claims, for an order requiring the landlord to provide services or facilities required by law, an order restricting the landlord's right to enter the rental unit, authorization to change the locks to the rental

unit, and an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement, were severed and dismissed with leave to reapply, since this tenancy is continuing. I notified them that the tenants can file a new RTB application, if they want to pursue these claims in the future. They affirmed their understanding of same.

Settlement Terms

Pursuant to section 63 of the *Act*, if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision and orders. During the hearing, the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. Both parties agreed that this tenancy will continue until it is ended in accordance with the *Act*;
2. The landlord agreed that his 10 Day Notice, dated November 5, 2022, and effective November 30, 2022, was cancelled and of no force or effect;
 - a. The landlord agreed that the tenants paid the outstanding utilities of \$704.30 due on March 3, 2022, as indicated on the 10 Day Notice;
3. The landlord agreed to provide the tenants with gas, hydro, and water utilities invoices as soon as he receives them;
4. The tenants agreed to pay the landlord for gas, hydro, and water utilities at the rental unit, within 30 days of receiving the utilities invoices from the landlord, first;
5. The tenants agreed that this settlement agreement constitutes a final and binding resolution of their application.

These particulars comprise the full and final settlement of all aspects of this dispute. Both parties affirmed at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties affirmed that they understood and agreed that the above terms are legal, final, binding, and enforceable, which settle all aspects of this dispute.

The terms and consequences of the above settlement were reviewed in detail, with both parties during this lengthy 58-minute hearing. Both parties were given ample and additional time during this hearing to think about, discuss, negotiate, and decide about the above settlement terms.

The tenants were provided with ample and additional time during this hearing, as per their request, to speak privately with their agent, regarding the above settlement terms.

Conclusion

I order both parties to comply with all of the above settlement terms.

This tenancy continues until it is ended in accordance with the *Act*.

The landlord's 10 Day Notice, dated November 5, 2022, and effective November 30, 2022, is cancelled and of no force or effect.

The tenants' application for an order requiring the landlord to provide services or facilities required by law, an order restricting the landlord's right to enter the rental unit, authorization to change the locks to the rental unit, and an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement, is severed and dismissed with 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: March 20, 2023

Residential Tenancy Branch