



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNDC MNETC RPP

Introduction

This hearing was convened as a result of the two different Applications for Dispute Resolution. A participatory hearing was held on March 2, 2023. The Tenants applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the “Act”).

Both the Landlords, and the Tenants attended the hearing and provided affirmed testimony. The Landlord’s legal counsel was also present at the hearing.

All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

Preliminary Matters - Service

This hearing was scheduled to hear both of the Tenants’ applications. The first application was made on October 20, 2022, and was for monetary compensation in the amount of \$3,192.61, plus the return of their personal property. Following this, the Tenants filed an amendment, on October 23, 2022, to the first application to increase the amount of compensation to \$19,443.61. The Tenants then filed a second application on November 29, 2022, for other monetary compensation in the amount of \$35,000.00. Both of these application were set to be heard at today’s hearing.

Firstly, I find that section 58(2) of the Act applies and states:

58(2) Except as provided in subsection (4) (a), **the director must not determine a dispute if any of the following applies:**

(a) **the amount claimed**, excluding any amount claimed under

section 51 (1) or (2) *[tenant's compensation: section 49 notice]*,

51.1 *[tenant's compensation: requirement to vacate]* or

51.3 *[tenant's compensation: no right of first refusal]*, for debt or **damages is more than the monetary limit for claims under the [Small Claims Act](#)**;

As the *Small Claims Act* limit is currently \$35,000.00 as of the date of the hearing, I find that I do not have jurisdiction to consider the monetary claim before me and as a result, I dismiss the monetary claim, with leave to reapply. The tenant is cautioned that the total for all combined claims must not exceed \$35,000.00 to be considered by the RTB. For claims over \$35,000.00 the Supreme Court has exclusive jurisdiction as this matter does not relate to sections 51(1), 51(2), 51.1 or 51.3 of the Act.

I also note the following Rule of Procedure:

2.9 No divided claims

An applicant may not divide a claim.

Also, it appears the Tenants divided their claims across multiple applications, which is against the Rules, and in doing so, they have pushed the amounts sought, for this proceeding, beyond what is permissible under the Act.

I also note there were several issues with respect to service of the documents, and the two Notice of Dispute Resolution Proceeding documents the Tenants were required to serve to the Landlords. The Tenants stated that they sent the Notice of Dispute Resolution Proceeding to the Landlords' address noted on the tenancy agreement from 5 years ago. The Tenants assert that the Landlords own that house, and ought to be able to receive documents at that residence. The Landlords stated that they moved out of that house last August 2022, and rented it out to other people. They stated they informed the Tenants of this and that they wanted all documents to be sent to their lawyer's address. However, the Tenants continued to try to serve the Landlords the Notice of Dispute Resolution Proceeding and evidence to the old address. The Tenants stated that this was done because they "do not trust" the Landlords' legal counsel, and

did not want to send the documents there, despite being given this as an address for service.

The Landlords confirmed that their legal counsel's address was also the address noted on the Landlord's "address for service" on all of the Notices to End Tenancy that occurred last year. Several hearings were held on those matters. The Landlords' counsel also pointed out that they sent an email to the Tenants on October 20, 2022, which the Tenants received, stating that all documents should be sent to the Landlords' address for service noted on the Notices to End Tenancy (Legal Counsel's address).

I note the Landlords stated that some of the documents were forwarded by the people renting out the Landlord's previous address (original address noted on the tenancy agreement for Landlord's address for service). However, many were not, and the ones that were forwarded to the Landlords were done late, and didn't leave the Landlords time to properly respond to the matters. I find the manner in which the Tenants served the Landlords is prejudicial, and is not reasonable. The Tenants were aware that the Landlords were wishing for their forwarding address to be updated to their legal counsel's address, yet they decided to use the Landlords' old address. I accept the Landlords testimony that this old address is rented out to another family, and is no longer their forwarding address.

Ultimately, I find the Tenants have failed to sufficiently serve the Landlords with their Notice of Dispute Resolution Proceeding documents for both applications they made. I hereby dismiss the Tenants' applications, in full, 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 02, 2023

Residential Tenancy Branch