



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNC, DRI, FFT

Introduction

This hearing dealt with the tenant's application, filed on March 27, 2023, pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlord's One Month Notice to End Tenancy for Cause ("1 Month Notice"), pursuant to section 47;
- an order regarding a disputed additional rent increase, pursuant to section 43;
- authorization to recover the \$100.00 filing fee paid for this application, pursuant to section 72.

The landlord and the tenant attended this 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 13 minutes from 11:00 a.m. to 11:13 a.m.

Both parties confirmed their names and spelling. Both parties provided their email addresses for me to send this decision to them after this hearing.

The landlord stated that a company owns the rental unit. She said that she owns the company. She said that she had permission to represent the company at this hearing. She provided the rental unit address.

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, both parties separately affirmed, under oath, that they would not record this hearing.

I cautioned the tenant about interrupting me and speaking at the same time as me, during this hearing. I asked the tenant to allow me to speak and answer his questions during 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, and they could hire lawyers for same. I notified them that RTB information officers do not provide legal advice, they only provide information to parties. Both parties had an opportunity to ask questions, which I answered. Neither party made any adjournment or accommodation requests.

Both parties affirmed that they did not want to settle this application, they wanted to proceed with this hearing, and they wanted me to make a decision. Both parties were given multiple opportunities to settle this application and declined to do so.

I repeatedly cautioned the tenant that if I dismissed his application without leave to reapply, I could uphold the landlord's 1 Month Notice, end his tenancy, and issue a two (2) day order of possession against him. The tenant repeatedly affirmed that he was prepared for the above consequences if that was my decision.

I repeatedly cautioned the landlord that if I cancelled the landlord's 1 Month Notice, I could not issue an order of possession to the landlord against the tenant, and this tenancy could continue. The landlord repeatedly affirmed that the landlord was prepared for the above consequences if that was my decision.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package. The tenant 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 tenant's application and the tenant was duly served with the landlord's evidence.

Pursuant to section 64(3)(c) of the *Act*, I amend the tenant's application to remove the names of his two minor children and to include the full legal first name of the landlord. Both parties consented to these amendments during this hearing. I find no prejudice to either party in making these amendments.

Preliminary Issue – 1 Month Notice

The tenant provided the following statement regarding this claim in his RTB online application:

"I was asked to pay a rental increase of \$2400 per month above the previous monthly amount starting May 1st, 2023 or I will be forced to vacate by 30 April 2023."

At the outset of this hearing, both parties affirmed that the tenant did not receive a 1 Month Notice in the approved RTB form, from the landlord. Both parties agreed that the tenant only received a letter to move out from the landlord's lawyer. The tenant provided a copy of a letter, dated March 23, 2023, from the landlord's lawyer.

Sections 47 and 52 of the *Act*, state in part (my emphasis added):

Landlord's notice: cause

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:...

(2) A notice under this section must end the tenancy effective on a date that is

(a) not earlier than one month after the date the notice is received, and

(b) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

(3) A notice under this section must comply with section 52 [form and content of notice to end tenancy].

...

52 In order to be effective, a notice to end a tenancy must be in writing and must...

(e) when given by a landlord, be in the approved form.

Both parties provided undisputed, affirmed testimony at this hearing. The tenant did not receive a 1 Month Notice in the approved RTB form from the landlord, as required by section 52 of the *Act*.

Accordingly, the tenant's application to cancel the landlord's 1 Month Notice, pursuant to section 47 of the *Act*, is dismissed without leave to reapply. The landlord is not issued an order of possession against the tenant, pursuant to section 55 of the *Act*. This tenancy continues until it is ended in accordance with the *Act*.

I informed both parties of my decision during this hearing. They affirmed their understanding of same.

Preliminary Issue – Disputed Additional Rent Increase

The tenant applied for a monetary order of \$4,000.00 for a dispute additional rent increase, and provided the following statement regarding this claim in his RTB online application:

“My landlord is asking me to pay a rental increase because our relationship ended in December 2022”

The tenant agreed that he did not pay any rent increase to the landlord, and he did not vacate the rental unit for failure to pay a rent increase. He claimed that he was asked to pay a rent increase or move out, in a letter from the landlord’s lawyer. He said that he did not apply for a monetary order of \$4,000.00 for this claim.

Pursuant to section 62(4)(b) of the *Act*, I can refuse to accept an application if it does not disclose a dispute that may be determined. I cannot decide hypothetical or future events, that have not yet occurred. I cannot engage in an academic exercise, when an event may or may not happen in the future.

The tenant did not pay a rent increase to the landlord for \$4,000.00 or otherwise. The tenant’s application for a disputed additional rent increase of \$4,000.00 is dismissed without leave to reapply.

I informed both parties of my decision during this hearing. They affirmed their understanding of same.

Preliminary Issue – Filing Fee

The tenant applied for reimbursement of the \$100.00 filing fee paid for this application.

A filing fee is a discretionary award issued by an Arbitrator, usually when an applicant party is successful in their application, after a decision is made by an Arbitrator, on the merits of the applicant’s application.

The tenant was wholly unsuccessful in this application, as it was dismissed in its entirety without leave to reapply, as noted above. Therefore, the tenant is not entitled to recover

the \$100.00 filing fee from the landlord and this claim is dismissed without leave to reapply.

I informed both parties of my decision during this hearing. They affirmed their understanding of same.

Conclusion

The tenant's entire application is 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: April 24, 2023

Residential Tenancy Branch