



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes

For the tenants: CNL, DRI-ARI-C, PSF, OLC, MNDC, FF
For the landlord: MND-S, FF

Introduction, Preliminary and Procedural Matters-

This hearing was originally scheduled to deal with the tenants' application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act).

The tenant's original application was filed on December 12, 2022, seeking the following:

- an order cancelling the Two Month Notice to End Tenancy for Landlord's Use of Property (Notice) issued by the landlord;
- to dispute a rent increase for capital expenditures that does not comply with the Act;
- an order requiring the landlord to provide for services or facilities required by the tenancy agreement or the Act;
- an order requiring the landlord to comply with the Act, regulations, or tenancy agreement;
- compensation for a monetary loss or other money owed; and
- recovery of the cost of the filing fee.

Through 6 amendments, the tenants reduced the number of claims to a claim for monetary compensation from the landlord and recovery of the cost of the filing fee.

On March 4, 2023, the landlord filed their application for dispute resolution seeking the following:

- compensation for alleged damage to the rental unit by the tenants;

- authority to keep the tenants' security deposit to use against a monetary award; and
- recovery of the cost of the filing fee.

The landlord's application was crossed with the tenant's application.

The tenants, the landlord and the landlord's agent attended the hearing and were affirmed. Preliminary matters were discussed due to the issues in both applications.

Tenants' application -

The tenants were informed that I would be unable to proceed on their monetary claim. The hearing was scheduled in response to the tenants' request to cancel a 2 Month Notice primarily, and for an order requiring the landlord to comply with the Act and provide for required services or facilities, had time permitted during the hearing. Within these claims, the tenants also described a monetary claim.

Residential Tenancy Branch (RTB) Rules of Procedure (Rules), Rule 2.3, states that 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.

I find the tenants' monetary claim was unrelated to the primary claims.

After the tenants vacated on or about February 28, 2023, the tenants through multiple amendments removed some claims and added to a monetary claim, which had been located in some of their removed claims.

Having reviewed the landlord's written statement prior to the hearing, the landlord wrote that they were unsure what claims the tenants removed and what claims remained. The landlord believed that the only remaining claim was to recover the filing fee, according to the detailed written statement, with supporting reasons why the application was unclear.

The tenants were informed that their application was being refused, pursuant to section 59(5)(c) of the Act. The purpose of the tenants' application changed, but due to the many changes, I find that the remaining application was confusing and as a result, I find the tenants provided insufficient clear particulars.

Additionally, a significant portion of the tenants' evidence was submitted into the digital RTB file without labels. The Rules require that all parties clearly label and organize any evidence and that the unlabelled evidence would not have been considered.

Landlord's application -

The landlord was informed that I would not proceed with the landlord's application because I find that the application provided insufficient particulars of their claim for compensation, as is required by the Act. Additionally, Rule 2.5 states that the applicant must submit a detailed calculation of any monetary claim being made and copies of all other documentary and digital evidence to be relied on in the proceeding. The applicants are provided with instructions in the application package as to these evidence requirements. The RTB provides monetary order worksheet forms parties may use to detail their monetary claim.

In these circumstances, I find the landlord failed to provide a detailed calculation of their monetary claim of \$6,724.85 which sets out how the landlord arrived at the amount being claimed. I find this lack of particulars makes it difficult, if not impossible, for the tenants to adequately prepare a response to the claim. It is not up to the respondent or the arbitrator to piece together how the landlord arrived at their total claim.

Both applications -

The objective of the Rules is to ensure a fair, efficient, and consistent process for resolving disputes for landlords and tenants.

Both parties have the right to a fair hearing and both are entitled to know the full particulars of the claim made against them at the time the applicant submits their application in order to prepare a response.

I find that proceeding with either application at this hearing would be prejudicial and procedurally unfair to the other party, in the absence of particulars described above.

I therefore **dismiss** both applications of the parties, **with leave to reapply**.

I do not grant either party the recovery of the cost of the filing fee as I have not considered the merits of their application.

Leave to reapply does not extend any applicable time limitation period.

As I have dismissed the landlord's application in which they claimed against the tenants' security deposit, I find the tenants' security deposit must be returned. This finding is based upon Tenancy Policy Guideline 17.C. Pursuant to section 62(3) of the Act, I order the landlord to return the tenants' security deposit immediately, if they have not already done so. If the landlord fails to do so, the tenants will have the ability to request double the security deposit. The matter of the security deposit was not confirmed, but a written tenancy agreement filed by the tenants shows a security deposit of \$1000.

The parties are reminded that any evidence from these applications they want considered for another dispute resolution hearing must be filed in their future application. Evidence does not transfer from file to file.

The parties may wish to review the requirements for evidence submissions under all of Rule 3, including all sections and sub-sections.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: May 02, 2023

Residential Tenancy Branch