



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNR, RR, RP
OPR-DR, MNR-DR, FFL

Introduction

Under section 58 of the Residential Tenancy Act (the “Act”), this hearing dealt with the tenant’s March 24, 2023, application to the Residential Tenancy Branch for:

- (i) an order cancelling the notice to end tenancy for unpaid rent (the “Notice”), under section 46(4)(b) of the Act;
- (ii) an order to reduce rent for repairs, services or facilities agreed upon but not provided under section 65 of the Act; and
- (iii) an order for repairs to be made to the rental unit under section 32 of the Act.

In addition, under section 58 of the Act, this hearing dealt with the landlord’s April 6, 2023, application to the Residential Tenancy Branch for:

- (i) an order of possession on the Notice under section 55(2)(b) of the Act;
- (ii) a monetary order for unpaid rent under section 67 of the Act; and
- (iii) authorization to recover the cost of the filing fee under section 72 of the Act.

Preliminary Issue - Unrelated Claims

Rules of Procedure 2.3 states that claims made in an application for dispute resolution must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims.

It is my determination that the tenant’s claim regarding the Notice is not sufficiently related to the tenant’s other claims to warrant that they be heard together. I exercise my discretion to dismiss the tenant’s other claims with leave to reapply and will deal only with the issues relating to the Notice.

Issues

1. Is the tenant entitled to an order cancelling the Notice?
2. If not, is the landlord entitled to an order of possession?
3. Is the landlord entitled to recover the cost of the filing fee?

Analysis

As the onus is on the landlord to prove the validity of the Notice and the landlord has not attended the hearing to substantiate the Notice, I am cancelling the Notice.

Since the landlord was not successful in its application, the landlord is not entitled to \$100.00 to cover the cost of the filing fee under section 72 of the Act.

Conclusion

The tenant's application is granted. The tenancy shall continue until it is ended in accordance with the Act.

The landlord's 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: May 26, 2023

Residential Tenancy Branch