



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes

Landlord's application: OPC, MNDL-S, FFL

Tenant's application: CNC, MNDCT, RR, RP, OLC, FFT

Introduction

This hearing was scheduled to deal with cross applications.

The landlords applied for:

- an Order of Possession for cause
- monetary compensation for damage to the rental unit and authorization to retain the security deposit and/or pet damage deposit
- recovery of the filing fee

The tenants applied for:

- cancellation of a One Month Notice to End Tenancy for Cause ("One Month Notice")
- orders for compliance
- orders for repairs
- authorization to reduce rent payable
- recovery of the filing fee.

All named parties appeared and were affirmed.

Preliminary and Procedural Matters

1. Service of materials

The parties confirmed they exchanged their respective proceeding packages with each other, in person shortly after filing.

The landlord testified that they sent evidence, and a Monetary Order Worksheet that provided a sum greater than that appearing on the Application for Dispute Resolution, via registered mail sent to the tenant's forwarding address on May 29, 2023. The landlord acknowledged they did not serve an Amendment. The tenants acknowledged receipt of this package on May 31, 2023.

The tenants sent documents supporting their Application for Dispute Resolution to the landlords via registered mail on April 9, 2023; however, the only service address the tenants have for the landlords is the rental unit address.

The landlord confirmed the only service address provided to the tenants was the rental unit address. The landlord explained that if the tenants needed to give them documents the tenants would have to send him a text message and then he would come to the rental unit. I expressed to the landlords that a service address is to be an address where a party may receive mail or be served in another permissible way such as in person, posting to the door, or left in the mailbox. A tenant is not obligated to send a text message to a landlord to inform them that mail is waiting for them at the rental unit.

2. Status of tenancy

Both parties were in agreement that the tenancy has since ended by way of the tenants vacating the rental unit, although the parties were in dispute as to when it ended. Having heard the tenants have already vacated the rental unit, I found the majority of the remedies sought by the parties in their respective applications to be moot. In other words, it is unnecessary to further consider whether the One Month Notice should be upheld or cancelled; or whether orders for repairs or compliance should be issued. Also, the tenants are no longer paying rent, thus it is unnecessary to further consider authorizing a rent reduction.

It appeared to me from the evidence submissions that both parties were attempting to have monetary cross claims heard.

3. Severing of applications

Below, I have reproduced Rules 2.3 and 6.2 of the Rules of Procedure:

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.

Where multiple issues are raised in a single application, Rule 2.3 of the Rules of Procedure provides me discretion to sever the application of unrelated claims. This hearing was scheduled more urgently because the parties indicated there was a One Month Notice issued and the tenancy was still in effect. Monetary claims are typically scheduled with less urgency.

In filing their application, the tenants had included a monetary claim concerning the condition of the rental unit. However, I am of the view that is not sufficiently related to the primary issue of a disputed One Month Notice. Also, during the hearing, the tenants wanted to raise the issue of return of their security deposit and pet damage deposit; however, they did not file an Amendment to add such issues to their application and such a claim is unrelated to a disputed One Month Notice. Therefore, I exercised my discretion under Rule 2.3 and severed the tenant's monetary claim and dismissed it with leave to reapply.

The landlord had initially requested compensation for damage, pointing to the tenants having 10 dogs in the details of dispute but no other particulars were provided with the application. Nor was a detailed monetary calculation provided with the application. Rather, the landlord indicated during the hearing that they had to wait for the tenants to vacate the rental unit to determine the extent of damage to the rental unit which lead to

the Monetary Order Worksheet being prepared on May 30, 2023 for a larger amount than originally claimed.

The landlords did not submit and serve an Amendment. Nor did the landlords serve the tenant with the Monetary Order Worksheet and evidence at least 14 days before the hearing as required under the Rules of Procedure. Therefore, I severed the landlord's monetary claim with leave to reapply.

Although the parties provided conflicting testimony as to when and how the tenant's forwarding address was provided to the landlords, the landlord testified that he had received the tenant's forwarding address via text message on May 27, 2023. If that is the case, the landlord is still within 15 days of receiving a forwarding address to file a claim against the deposits and is not prejudiced by dismissal of the landlord's monetary claim, with leave to reapply.

It is important to note that dismissal, with leave, does not extend any applicable time limit provided under the Act.

Conclusion

The remedies sought by the parties are moot since the tenancy has already ended, with the exception of the parties' monetary claims.

The parties' monetary claims were severed under Rule 2.3 of the Rules of Procedure 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: June 08, 2023

Residential Tenancy Branch