



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes

File #910124704: CNL

File #910132655: OPR

Introduction

The Tenant M.D. files for an order pursuant to s. 49 of the *Residential Tenancy Act* (the “Act”) cancelling a Two-Month Notice to End Tenancy for Landlord’s Use of the Property (the “Two Month Notice”).

The Landlords filed their own application seeking an order of possession pursuant to s. 55 after issuing a 10-Day Notice to End Tenancy for Unpaid Rent (the “10 Day Notice”).

N.P. and M.P. attended as the Landlords. Neither tenant attended the hearing.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

Dismissal of the Applications

At the outset of the hearing, I enquired with the Landlords whether the Tenant continued to reside at the rental unit. I was advised by the landlord N.P. that the Tenant vacated on November 24, 2023.

I find that the tenancy is over and accept that the Landlords have taken back possession of the rental unit, such that the relief sought in both applications is now moot. Given this, I dismiss both applications, without leave to reapply. I make no findings with respect to the substantive issues in dispute in either application.

Review of the Landlords' application materials shows that they have provided an unsigned and undated amendment to their application in which they seek an order for unpaid rent. The landlord N.P. says that they do not wish to pursue this claim at this time.

I note that the amendment was submitted to the Residential Tenancy Branch as evidence on the Landlords' application rather than being submitted as an amendment. This point is made clear by Rules 4.1 and 4.5 of the Rules of Procedure. The distinction is relevant because the Residential Tenancy Branch cannot process the amendment when submitted as evidence as it does not receive notice of the amendment when it is provided in that manner.

I find that the amendment was improperly filed such that I do not consider it. I make no findings on the claim for unpaid rent and the Landlords are at liberty to apply for the relief, should they choose to do so.

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: December 05, 2023

Residential Tenancy Branch