



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Introduction

This telephone conference call hearing was convened as a result of the tenant's two applications for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act).

The tenant first applied on November 3, 2023, for compensation for a monetary loss or other money owed, a reduction in monthly rent, an order requiring the landlord to comply with the Act, regulations, or tenancy agreement and recovery of the filing fee.

The tenant then filed another application on January 4, 2024, seeking compensation for a monetary loss or other money owed, an order requiring the landlord to comply with the Act, regulations, or tenancy agreement and recovery of the filing fee.

Although the tenant could have amended their first application to include the claims made in their second application, the two files were administratively joined by the Residential Tenancy Branch (RTB) as repeated applications, set for the same time and date. For this reason, I will only consider one request for recovery of the filing fee.

Those listed on the cover page of this decision attended the hearing and were affirmed.

The hearing process was explained to the parties and an opportunity was given to ask questions about the hearing process. The hearing continued for 68 minutes.

The landlord confirmed receiving the tenant's first application and evidence and the tenant confirmed receipt of the landlord's evidence. The tenant said they did not serve the landlord with their additional evidence filed with the Residential Tenancy Branch (RTB) on January 30, 2024. For this reason, that additional evidence is excluded from consideration in making this Decision.

The tenant submitted evidence that their 2nd application was served to the landlord by email, which was approved for service of documents in a previous Decision on the

tenant's application for an order requiring the landlord to make emergency repairs to the rental unit for health or safety reasons. I find the landlord was sufficiently served in accordance with a previous arbitrator's order.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, not all details of the parties' respective submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matters-

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.

In the tenant's two applications, they listed multiple claims. I find the most urgent matters to consider are the tenant's request for an order requiring the landlord to comply with the Act, regulations, or tenancy agreement and a reduction in monthly rent. I find the tenant's claim for compensation for a monetary loss or other money owed is not sufficiently related to the primary issues. I will, therefore, only consider the tenant's urgent matters and the tenant's monetary claims from both applications are severed and dismissed, with leave to reapply. Leave to reapply is not an extension of any applicable time limit.

Issue(s) to be Decided

Is the tenant entitled to an order requiring the landlord to comply with the Act, regulations, or tenancy agreement and a reduction in monthly rent?

Is the tenant entitled to recovery of the filing fee?

Background and Evidence

The written tenancy agreement states that the tenancy started on May 1, 2023, monthly rent is \$1550, and the tenant paid a security deposit of \$750 and a pet damage deposit of \$250.

Order requiring the landlord to comply with the Act, regulations, or tenancy agreement -

In their first application, the tenant wrote the following in describing their claim:

The landlord has not been fulfilling their responsibilities under the lease since the onset of the lease agreement. I have tried to be positive and compliant however, I do not appreciate delays in repairs, delays with agreed upon removal and clearing of their personal items on site, as well as being intimidated, treated unfairly, and threatened by the landlord to leave. I have also had to complete cleaning and repairs myself with limited support from the landlords.

In support of their first application, the tenant testified to the following: The request includes requiring the landlord to remove their personal items from the garage. The landlord removed items from the home and relocated them to the garage, depriving the tenant of use of all the garage. The landlord originally agreed to purge the belongings by holding a garage sale last summer. The tenant estimated that the garage was $\frac{1}{4}$ of the square footage of the home and there is a reduction in the value of the tenancy as the landlord's personal property was taking up $\frac{2}{3}$ of the garage.

The rental unit was listed a fully furnished and at the initial walk through, they went around the rental unit and identified the items they did not want to keep inside. There was no move-in inspection and although promised, the landlord did not have the rental unit cleaned.

In response, the landlord testified to the following:

It is unreasonable to assume the garage is $\frac{1}{4}$ of the square footage of the home, as the home is 3 stories. The total garage space is maybe $\frac{1}{5}$ of the home, which is a single car size. They disposed of the items that the tenant asked to be disposed and the items left in storage stay with the home, as it was advertised as fully furnished. They removed some items at the tenant's request and did have a garage sale last summer. The tenant lived with the personal property in the garage for 5 months before a personality issue developed. Also, the tenant removed a lot more things than they agreed upon. The garage is not included in the tenancy agreement and the lease is for a fully furnished home.

In their second application, the tenant wrote the following in describing their claim:

*I would like to be treated fairly without harassment & bullying from the landlord.
See order evidence for backup related to this claim.*

The tenant testified and stated the attached emails show the landlord has bombarded the tenant with emails, which show the landlords are overbearing and harassing, at one point calling the tenant a drug addict. At one point, the landlord entered the property without a 24 hour notice.

In response, the landlord said 80-85% of the emails are from the tenant, and they are just responding to all the tenant's emails.

The landlord testified further about matters dealt with in the tenant's application for emergency repairs. The Decision of another arbitrator was dated December 28, 2023, and filed in evidence.

Order for a reduction in rent -

As to the request for a reduction in rent of \$250, the tenant described this claim in their application as follows:

I would like a reduction on rent based on the landlord continuing to store their personal belongings in the garage, which was not apart of the lease agreement. The garage is 1/4 of the total sq.ft. of the rental home and I would like rent reduction based on my personal non-use of the space.

The majority of the related testimony on this issue was taken during consideration of the tenant's request for an order requiring the landlord to comply with the Act, regulations, or tenancy agreement, apart from the following:

The tenant testified they cannot use the garage space and that items left in the garage are not furniture to be returned once the tenancy is over, but rather the landlord keeps their dirt bikes, helmets, and an old pellet stove.

In response, the landlord testified that there is construction material there, home décor boxes and a guest bed. A lawnmower and snow blower are for use for the home. The

tenant has access to the boiler room, hot water tank and electrical panel. The items left do not take up more than a 1/3 of the space.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Taken in totality, I find the claims that are to be considered relate primarily to the same matters, which will be addressed below.

Application #1:

I must note that a significant amount of evidence from both parties were not related to these applications. The evidence I find shows that the evidence was related to matters from the beginning of the tenancy, other issues not related to the statements made in the tenant's two applications, and, on behalf of the landlord, for matters that were previously decided in another dispute relating to the heat source. This evidence was not considered for these reasons.

As to the request for an order requiring the landlord to comply with the Act, regulations, or tenancy agreement in the tenant's first application, apart from the request for removal and clearing of personal items in the garage, I find the rest of the description of the claim to be vague and unclear. For instance, the tenant stated the landlord failed to complete the cleaning and repairs, while the landlord disagreed. However, apart from the disagreements, I cannot order the landlord to clean the rental unit which the tenant said they did nearer the beginning of the tenancy.

As to the matter dealing with the garage space, I have reviewed the written tenancy agreement, the garage was not specifically mentioned as included or excluded, and because the tenant can access the garage from their unit and it is attached, I conclude that the garage was part of the tenancy for use by the tenant.

However, in considering the claim overall, I find the evidence shows that the rental unit was advertised as fully furnished, and as the tenant wanted some items removed, the landlord agreed and moved some of the non-wanted items to the garage. I find it reasonable for the landlord to store some furniture and other items from the home in the garage during the tenancy to comply with the tenant's request. I do not find it reasonable to grant the tenant compensation for loss of garage space when the tenant

requested the items removed from the home as I find it reasonable that the landlord would store the items in the garage.

Having said that, I find the undisputed evidence is that the landlord has stored their personal property in the garage, such as dirt bikes, helmets, and some construction material. I find it reasonable to conclude that the tenant is being deprived of partial use of the garage, which I found was included in the written tenancy agreement. In reviewing the tenant's photographs, some of which were not relevant to their applications, I find the tenant still had most of the use of the garage.

Taken in totality, I find the tenant failed to explain in their application what repairs were delayed, or specifically how they were being intimidated, treated unfairly or being threatened. There were no requests for repairs before me.

For the reasons above, I do not order the landlord to remove the personal property from the garage that belonged to the house and that was moved due to the tenant's request.

Further, the undisputed evidence is that the landlord did store their own personal property in the garage, such as dirt bikes, helmets, and construction material. I find this infringed on the tenant's space in the garage. For this reason, I order the landlord to remove these personal items as soon as possible, or within 1 month of this Decision.

As to the tenant's request for a rent reduction, I find the landlord's personal property as mentioned above takes up a very small space. I find the applicant/tenant has not proven how much square footage is being impacted. For this reason, I find it reasonable to award the tenant a reduction in the monthly rent of \$20, beginning with the March 2024 rent in acknowledgement of a loss of use, until the landlord's personal property not belonging to the home is removed. Once removed, the tenant must resume paying the full amount of rent the month following.

As the tenant's application was partially successful, I grant the tenant recovery of the filing fee of \$100.

I authorize the tenant a one-time rent reduction in the amount of **\$100** from a future month's rent in full satisfaction of the recovery of the cost of the filing fee. The tenant should inform the landlord when making this deduction so that the landlord has no grounds to serve a 10 Day Notice in that event.

Application #2:

As to the tenant's request for an order requiring the landlord to comply with the Act, regulations, or tenancy agreement, I dismiss this claim without leave to reapply. The tenant's explanation was vague and non-descriptive. While the tenant asked that the landlord treat them fairly, they also stated to see "order evidence" for backup. I find it was not clear what order evidence was meant to be, but the tenant submitted a copy of another Decision by another arbitrator a week prior to this application being made. I find that the tenant did not set out sufficient particulars of their claim and is therefore insufficient for the landlord to know the claim against them.

Further, as the tenant filed a second application without amending their first application, I dismiss their request to recover the filing fee, without leave to reapply.

Information for the landlord –

In the landlord's evidence, both landlords requested an order of possession of the rental unit for various reasons. The landlord cited irreconcilable differences, which is not listed in the Act as a reason to end the tenancy. Further, the landlord requested orders against the tenant in their evidence. The landlords are informed that I am only considering the issues in the tenant's application, and the landlord's requests made through evidence is not before me by way of an application.

Conclusion

The tenant's monetary claims in both applications were severed as not being sufficiently related to the primary claims and are dismissed with leave to reapply.

The tenant's first application was partially successful and they have been granted a reduction in monthly rent of \$20, in the above terms.

The tenant's second application, apart from the monetary claim, is dismissed without leave to reapply, for the reasons set out above.

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: February 17, 2024