

## **DECISION**

### **Introduction**

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This hearing dealt with the tenant's application for dispute resolution, filed on January 7, 2024, under the *Residential Tenancy Act* ("Act") for:

- a monetary order of \$210.00 for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation"), or tenancy agreement, under section 67 of the *Act*;
- an order to allow the tenant to reduce rent of \$100.00 for repairs, services, or facilities agreed upon but not provided, under sections 27 and 65 of the *Act*;
- an order requiring the landlord to make repairs to the rental unit, under sections 32 and 62 of the *Act*; and
- authorization to recover the \$100.00 filing fee paid for this application from the landlord, under section 72 of the *Act*.

The landlord's agent and the tenant attended this hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

This hearing lasted approximately 55 minutes from 9:30 a.m. to 10:25 a.m.

Both parties confirmed their names and spelling. Both parties provided their email addresses for me to send copies of this decision to them.

The landlord's agent confirmed that he is a relationship manager, employed by the landlord company ("landlord") named in this application. He provided the legal name of the landlord. He said that the landlord is an agent for the owner of the rental unit. He stated that he had permission to represent the landlord and owner. He provided the rental unit address.

Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* ("*Rules*") does not permit recordings of any RTB hearings by any participants. At the outset of this hearing, both parties separately affirmed that they would not record this hearing.

I explained the hearing and settlement processes, and the potential outcomes and consequences, to both parties. I informed both parties that I could not provide legal advice to them. Both parties had an opportunity to ask questions, which I answered. Neither party made any adjournment or accommodation requests.

Both parties confirmed that they were ready to proceed with this hearing, they wanted to settle this application, and they did not want me to make a decision.

The landlord's agent stated that he did not receive a copy of the tenant's application for dispute resolution hearing package. He said that he only received a screenshot of the hearing information from the tenant. He confirmed that he wanted to settle this application, despite not receiving a copy of it.

## **Preliminary Issue – Severing Tenant's Rent Reduction Claim**

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The following RTB *Rules* are applicable and state (my emphasis added):

### *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.***

Rules 2.3 and 6.2 of the RTB *Rules of Procedure* allow me to sever issues that are not related to the tenant's application. The tenant applied for four different claims in this application.

The tenant was provided with a priority hearing date, due to the urgent nature of his application for an order requiring the landlord to make repairs to the rental unit. This is the central and most important, urgent issue to be dealt with at this hearing.

I informed both parties that the tenant's monetary claim for a rent reduction of \$100.00, was severed and dismissed with leave to reapply. I notified them that this monetary claim can be severed at a hearing. This is in accordance with Rules 2.3 and 6.2 of the RTB *Rules* above. They confirmed their understanding of same.

I informed both parties that we would only deal with the tenant's three claims for an order requiring the landlord to make repairs, a monetary order for compensation, and recovery of the filing fee, at this hearing. They confirmed their understanding of same.

Three of the tenant's four claims were dealt with at this hearing, by way of settlement. After 55 minutes, there was insufficient time to deal with the tenant's one remaining monetary claim for \$100.00, at this hearing. Both parties discussed settlement of this issue, but declined to settle. I informed both parties that the tenant can file a new application and pay a new filing fee, if he wants to pursue this monetary claim in the future. They confirmed their understanding of same.

## **Settlement Terms**

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Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision and orders. During this hearing, the parties discussed the issues between them, turned their minds to compromise, and achieved a resolution of their dispute, except for the filing fee and the rent reduction claim.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time, except for the filing fee and the rent reduction claim:

1. The landlord, at its own cost, agreed to have a licensed, certified professional repair the washing machine at the tenant's rental unit, to ensure that it is in proper, working order, by May 31, 2024;
  - a. The landlord agreed to contact a licensed, certified professional by April 8, 2024, in order to initiate the above repair;
2. Both parties agreed to abide by section 29 of the *Act*, to facilitate the above repair;

- a. The landlord agreed to provide at least 24 hours written notice, prior to the landlord and any repair professionals entering the rental unit;
  - b. The tenant agreed to accept written notice from the landlord, by way of email, to the tenant's email address, which was confirmed by both parties verbally during this hearing (and is contained on the cover page of this decision);
  - c. The tenant agreed to provide access to the rental unit, provided that proper written notice is given by the landlord first, as noted above, whether the tenant is present or not;
  - d. Both parties confirmed the tenant's buzzer number verbally during this hearing (and is contained on the cover page of this decision);
3. The landlord agreed to pay the tenant \$210.00 total, to reimburse the tenant for a repair technician invoice, by April 30, 2024, by way of e-transfer, to the tenant's email address, which was confirmed by both parties verbally during this hearing (and is contained on the cover page of this decision);
4. The tenant, at his own cost, agreed to provide the landlord with a spare key to access the rental unit, by March 27, 2024;
  - a. Both parties agreed that the tenant will drop off an envelope addressed to the landlord's name, with the tenant's name and the rental unit address on it, to the 24-hour concierge at the landlord's office, the address of which was confirmed by both parties verbally during this hearing (and is contained on the cover page of this decision);
  - b. The landlord agreed that the landlord's office address, which was confirmed by both parties verbally during this hearing (and is contained on the cover page of this decision), is the correct address for service of the landlord, for any tenancy-related issues;
5. Both parties confirmed their email addresses and phone numbers verbally during this hearing (and is contained on the cover page of this decision);
6. The tenant agreed that this settlement agreement constitutes a final and binding resolution of his application, except for the filing fee and the rent reduction claim.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties, except for the filing fee and the rent reduction claim. Both parties affirmed at the hearing that they understood and agreed to the above terms, free of any duress or coercion.

Both parties affirmed that they understood and agreed that the above terms are legal, final, binding, and enforceable, which settle all aspects of this dispute, except for the filing fee and the rent reduction claim.

The terms and consequences of the above settlement were reviewed in detail, with both parties during this lengthy 55-minute hearing. Both parties were provided with ample time during this hearing to think about, ask questions, discuss, negotiate, and decide about the above settlement terms.

## **Filing Fee**

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Both parties discussed settlement but declined to settle the tenant's application to recover the \$100.00 filing fee. The tenant asked that I make a decision about it.

The filing fee is a discretionary award usually issued by an Arbitrator after a full hearing is conducted on the merits of the tenant's application, a decision is made by the Arbitrator, and the tenant is successful. Both parties settled three claims in the tenant's application at this hearing and the remaining one claim was severed with leave to reapply. I was not required to conduct a full hearing or make a decision on the merits of the tenant's application.

For the above reasons, I dismiss the tenant's application to recover the \$100.00 filing fee, without leave to reapply.

## **Conclusion**

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I order both parties to comply with all of the above settlement terms.

The tenant's application to recover the \$100.00 filing fee from the landlord, is dismissed without leave to reapply.

The tenant's application for an order to allow the tenant to reduce rent of \$100.00 is severed and dismissed with leave to reapply.

In order to give effect to the above settlement reached between the parties, and as discussed with both parties during this hearing, I grant a Monetary Order in the tenant's favour in the amount of \$210.00. The tenant is provided with this Order and the landlord must be served with a copy of this Order. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the *Act*.

Dated: March 25, 2024

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Residential Tenancy Branch