

## **DECISION**

### **Introduction**

This hearing dealt with the Tenant's March 7, 2024, Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

- a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act
- an order to allow the Tenant to reduce rent for repairs, services or facilities agreed upon but not provided, under sections 27 and 65 of the Act
- an order for the Landlord to make repairs to the rental unit under sections 32 and 62 of the Act
- authorization to recover the filing fee for this application from the Landlord under section 72 of the Act

The Tenant attended with support of a witness.

Agents A.C. and A.U. attended the hearing for the Landlord.

All parties had an opportunity to submit sworn testimony.

### **Service of Notice and Evidence**

The parties confirmed that the Tenant served Notice of their original dispute on the Landlords shortly after making their application. This included the following requests as seen in the March 8, 2024, Notice of Dispute Resolution:

- an order to allow the Tenant to reduce rent for repairs, services or facilities agreed upon but not provided, under sections 27 and 65 of the Act
- an order for the Landlord to make repairs to the rental unit under sections 32 and 62 of the Act
- authorization to recover the filing fee for this application from the Landlord under section 72 of the Act

The total value of this claim was \$10,000.00.

The Tenant then amended their claim to increase a separate monetary claim for compensation and to also increase their claim regarding reduction of rent. The Tenant

confirmed that their current monetary claim is \$26,380.50 and that they updated their claim on May 2, 2024, with the RTB.

The Tenant agreed that they served a paper copy of their evidence for the total claim, along with Notice of the Claim amendment to the Landlords on May 3, 2024. The Tenant testified that they served all this information to the Landlords by email on May 2, 2024.

The Landlords objected to this service, and A.P. testified that the service did not satisfy the timelines required by the Act.

I find that the Tenant failed to serve the Landlords with complete Notice of their Dispute and associated evidence as required by RTB Rule of Procedure 3.1, 3.14, and 4.1. I give leave to reapply for the substance of the claim.

The Tenant requested an adjournment, stating that they have a disability and that it was difficult for them to get all evidence together for the hearing.

I considered the adjournment request as required by RTB Rule of Procedure 7.9:

#### 7.9 Criteria for granting an adjournment

Without restricting the authority of the arbitrator to consider other factors, the arbitrator will consider the following when allowing or disallowing a party's request for an adjournment:

- the oral or written submissions of the parties;
- the likelihood of the adjournment resulting in a resolution;
- the degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment;
- whether the adjournment is required to provide a fair opportunity for a party to be heard; and
- the possible prejudice to each party.

I refuse to grant this request for adjournment because I find that the Tenant neglected to serve and provide evidence of their claim, particularly Notice of the Amended claim, which dates back to 2022, in a timely matter. Likewise, I find that adjourning this file would not increase the likelihood of resolution for the file.

### **Recovery of Filing Fee**

The Tenant was not successful in this application and so I dismiss their request to recover the \$100.00 filing fee from the Landlord under section 72 of the Act.

### **Conclusion**

I order the application dismissed, with leave to reapply. I make no findings on the merits of the matter. Leave to reapply is not an extension of any applicable limitation period.

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: May 16, 2024

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Residential Tenancy Branch