



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, CNC, MNDC, OLC, PSF, RR, FF

This hearing dealt with applications from both the landlord and the tenants under the *Residential Tenancy Act* (the *Act*). The landlord applied for:

- an order of possession for cause pursuant to section 55;

The tenant's application is for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- authorization to recover her filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. At the outset there was excessive noise that was confirmed coming from the tenant's telephone line as she was at work. The tenant stated that she was a certified hoist operator and was unable to get time off work, nor would her employer allow her a break to conduct the hearing. The tenant stated that she was unwilling/ unable to move from her worksite as she was currently working. The tenant was repeatedly cautioned that if the noise persisted in disrupting the hearing that the tenant may be excluded from participating as the landlord had a right to be heard regarding his application.

During the hearing the tenant stated that her monetary claim was related to cable services that were promised to her, but not provided. RTB Rules of Procedure 2.3 states that "if in the course

of a dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so, the Arbitrator may dismiss unrelated disputes contained in a single application with or without leave to reapply.” In this regard I find that the tenant has applied for a monetary order for money owed or compensation for damage or loss, for an order for the landlord to comply with the Act and for an order for the landlord to provide services or facilities. As these sections of the tenant’s application are unrelated to the main section which is to cancel the notice to end tenancy issued for cause, I dismiss these sections of the tenant’s claim with leave to reapply.

Multiple attempts were made to conduct the hearing, but due to excessive noise from the tenant’s location, the hearing was suspended after 30 minutes. At approximately 9:30am, both parties were told to stay on hold. At 9:35am neither party was present on the conference call hearing. After waiting approximately 10 minutes, with neither party present, operator assistance was used to contact the landlord to conduct the hearing in the absence of the tenant due to the excessive and disruptive noise. The landlord was connected and the hearing proceeded in the absence of the tenant.

The hearing would proceed on the landlord’s application for an order of possession and the tenant’s request for an order to cancel the 1 Month Notice dated February 19, 2017.

At the outset the landlord, N.T. stated that the tenant, K.M. was not his tenant, but was instead a tenant of N.B. The landlord’s tenant/witness, N.B. confirmed that the sub-tenant, K.M. was his tenant and not N.T.’s. As such, I find that the landlord, N.T. has no standing in filing an application for dispute as a result of a notice to end tenancy when the tenant, K.M. was not his tenant. As such, the landlord’s application is dismissed.

I decline to grant a monetary claim for recovery of the filing fee as the landlord, N.T. is not the tenant, K.M.’s landlord.

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: April 04, 2017

Residential Tenancy Branch