



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, DRI, LRE, MNDCT, RR, FFT

### Introduction

On June 5, 2019, the Tenant made an Application for Dispute Resolution seeking to cancel a 10 Day Notice for Unpaid Rent (the "Notice") pursuant to Section 46 of the *Residential Tenancy Act* (the "*Act*"), seeking to dispute a rent increase pursuant to Section 41 of the *Act*, seeking to suspend the Landlord's right to enter pursuant to Section 70 of the *Act*, seeking a rent reduction pursuant to Section 65 of the *Act*, seeking monetary compensation pursuant to Section 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

This Application was set down for a hearing on July 12, 2019 and the hearing was subsequently adjourned to be heard on September 19, 2019 as there was not enough time to complete the hearing initially.

The Landlord attended the adjourned hearing with K.M. attending as an agent for the Landlord; however, the Tenant did not attend during the 11-minute adjourned hearing. All parties in attendance provided a solemn affirmation.

As per the Interim Decision dated July 15, 2019, only the Tenant's evidence served with the Notice of Hearing package will be considered when rendering this decision. Furthermore, I have accepted the Landlord's evidence and will consider it when rendering this decision.

All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

During the original hearing, I advised the Tenant that as per Rule 2.3 of the Rules of Procedure, claims made in an Application must be related to each other and that I have

the discretion to sever and dismiss unrelated claims. As such, I advised the Tenant that this hearing would primarily address the Landlord's 10 Day Notice for Unpaid Rent, that her other claims would be dismissed, and that she is at liberty to apply for these claims under a new and separate Application. However, she advised that she had vacated the rental unit prior to the original hearing. As such, an Order of Possession was not necessary to be granted. Furthermore, the issues pertaining to setting conditions on the Landlord's right to enter the rental unit and a rent reduction were not necessary to be addressed either. The original hearing proceeded based on the remaining claims on her Application.

#### Issue(s) to be Decided

- Did the Landlord increase the rent contrary to the *Act*?
- Is the Tenant entitled to a Monetary Order for compensation?
- Is the Tenant entitled to recover the filing fee?

#### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on July 1, 2015; however, they were engaged in a relationship together during a portion of the tenancy. The tenancy ended when the Tenant gave up vacant possession of the rental unit on July 2, 2019. The rent was established at \$1,960.00 per month and the Landlord advised that rent was due on the first day of each month. However, the Tenant advised that she paid rent every month but not necessarily on the first day of each month. She stated that prior to December 2018, there was no set date for when rent was due. A security deposit was not paid

The Tenant advised that she decided to withhold June 2019 rent for items that she had paid for during the tenancy; however, she confirmed that she did not have written authorization to do so. She submitted receipts, as documentary evidence, of items that she had paid out of pocket for and she stated that she had a verbal agreement with the Landlord to complete these projects. Although, she confirmed that she did not have any written authorization from the Landlord to complete any of these projects.

The Landlord advised that he did verbally agree to some of the work completed and he advised the Tenant not to pay the rent accordingly; however, he cannot recall what months he asked her to withhold the rent. He reiterated that they had been in a

relationship for a portion of tenancy and confirmed that there was no written tenancy agreement. Due to the nature of their relationship, the tenancy was not formal, and both parties had acted or worked together in consideration of the other party.

As there was not enough time to hear all of the Tenant's claims, the remainder of her submissions were left to be heard for the adjourned hearing.

### Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

With respect to the Tenant's claims for compensation, when establishing if monetary compensation is warranted, I find it important to note that Policy Guideline # 16 outlines that the purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred, and that it is up to the party claiming compensation to provide evidence to establish that compensation is warranted. In essence, to determine whether compensation is due, the following four-part test is applied:

- Did the Landlord fail to comply with the *Act*, regulation, or tenancy agreement?
- Did the loss or damage result from this non-compliance?
- Did the Tenants prove the amount of or value of the damage or loss?
- Did the Tenants act reasonably to minimize that damage or loss?

When reviewing the testimony of the parties, it was evident from their personal relationship that the parties did not have an intention to engage in a true tenancy as contemplated under the *Act*, and there was no formalized Landlord Tenant relationship. It is clear that both parties acted casually during the relationship, but since the deterioration of that relationship, the parties no longer were amicable, and the Tenant is seeking formal resolution now for the concessions that were made when they were in the relationship.

Based on the evidence and the testimony of the parties, I find that they had a satisfactory agreement during a portion of the tenancy whereby many items or work completed were agreed upon, and this was done for one another because they were in a relationship that extended beyond the purview of the *Act*.

As I am satisfied that the parties conducted themselves in a manner that would benefit each other, I find that it is not within my jurisdiction to determine who owes each party, in hindsight. Furthermore, the burden is on the Tenant to explain the breaches of the *Act* and then justify the amount of specific compensation she is seeking that is equivalent to the loss that she has suffered; however, she failed to attend the adjourned hearing. Consequently, I do not find that the Tenant has adequately established a claim under the *Act*. As such, I dismiss the Tenant's Application in its entirety.

As the Tenant was not successful in her claims, I find that the Tenant is not entitled to recover the \$100.00 filing fee paid for this application.

### Conclusion

I dismiss the Tenant's Application for Dispute Resolution without leave to reapply.

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: September 23, 2019

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Residential Tenancy Branch