



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, DRI, LRE, FFT

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlords' 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- a determination regarding their dispute of an additional rent increase by the landlord pursuant to section 43; and
- authorization to recover the filing fee for this application from the landlords pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. As Tenant MS (the tenant) confirmed they received the landlords' 1 Month Notice posted on their door on September 4, 2019, I find that the tenants were duly served with this Notice in accordance with section 88 of the *Act*. As the landlord's legal counsel confirmed that the landlords had received a copy of the tenants dispute resolution hearing package sent by the tenants by registered mail on September 11, 2019, I find that the landlords were duly served with this package in accordance with section 89 of the *Act*. The only written evidence submitted by either party was a copy of a letter the landlord's legal counsel had sent the tenants on November 1, 2019, which was only entered into written evidence by the landlord's legal counsel on the day of this hearing.

At the commencement of this hearing, the tenant confirmed the claim made by the landlords' legal counsel that the tenants vacated the rental unit on November 1, 2019.

As such, and as the landlords have already obtained possession of the rental unit and changed the locks, the tenants' applications for the following were withdrawn:

- cancellation of the landlords' 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;

The above-noted portions of the tenants' application are hereby withdrawn.

At the beginning of the hearing, I noted that the letter from the landlords' legal counsel referenced a previous Residential Tenancy Branch (RTB) hearing that was held on August 26, 2019 (see reference above). Although neither party provided copies of that decision or even the RTB File number so as to clarify what had happened at that previous hearing, I confirmed with the parties at the hearing that the parties had settled a similar dispute regarding the alleged additional rent increase that had been applied by the landlord at the August 26, 2019. At that time, the parties had agreed as to the correct monthly rent that was to be paid during this tenancy. As this portion of the tenants' current application represents a duplication of a matter already decided at the August 26, 2019 hearing by another Arbitrator appointed pursuant to the *Act*, I advised the parties that I was unable to revisit this portion of the tenants' current application. The legal principle of *res judicata* would not enable me to issue a new decision on a matter that had already been determined in the previous decision.

Analysis

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 or an order. As the parties agreed that this tenancy has ended, the parties took this opportunity to settle the following issues that remained in dispute.

Both parties agreed to the following final and binding resolution of their dispute:

1. The tenants agreed that the landlords could discard any material left in the rental unit at the end of this tenancy and that there was no need for the landlord to retain or store any of these items.
2. The tenants agreed to allow the landlords to retain the \$450.00 security deposit for this tenancy to be applied towards rent that the landlords maintained remains

owing and/or damage that the landlords maintained has arisen during the course of this tenancy.

3. Both parties understood that this settlement agreement constituted a final and binding resolution of the above two issues and that they did so of their own free will and without any element of force or coercion having been applied.

Conclusion

The tenants' application to cancel the 1 Month Notice and to issue orders regarding the landlords' right to enter the rental unit are withdrawn.

I have not considered the tenants' application regarding their dispute of an alleged additional rent increase as this matter is already subject to a previous final and binding decision issued by another Arbitrator appointed pursuant to the *Act*.

The tenants' application for the recovery of their filing fee is dismissed without leave to reapply, as the tenants have not been successful in their application.

To give effect to the settlement reached between the parties and as discussed at the hearing, I order that this tenancy ended on November 1, 2019. I also order the landlords to retain the tenants' security deposit to be applied against any unpaid rent that remains owing or damage for which the tenants are responsible. I also order that the landlords may discard any items left behind by the tenants in the rental unit and that there is no need for the landlords to retain or store any of these items.

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: November 14, 2019

Residential Tenancy Branch