



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, RP, LRE, FFT, CNC

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on January 13, 2020 (the “Application”). The Tenant applied as follows:

- For an order that the Landlords comply with the Act, regulation and/or the tenancy agreement;
- For repairs to be made to the rental unit;
- To suspend or set conditions on the Landlords’ right to enter the rental unit;
- To dispute a One Month Notice to End Tenancy for Cause; and
- For reimbursement for the filing fee.

The Tenant appeared at the hearing with the Witness who was outside the room until required. I did not hear from the Witness given the issue before me. The Landlords appeared at the hearing.

The Tenant confirmed at the outset that he no longer lives at the rental unit. At first, the Tenant did not want to withdraw his claims. I explained to the Tenant that all of the claims in the Application are relevant during a tenancy and are no longer relevant given he is no longer living at the rental unit. After a further discussion and explanation, the Tenant withdrew all of the claims other than the request for reimbursement for the filing fee.

The Tenant also said he wants further compensation. The Tenant had submitted a Monetary Order Worksheet but not an amendment to the Application. The Landlords testified that they did not receive the package with the Monetary Order Worksheet in it from the Tenant. The Tenant testified that he left the package on the ground leaning

against the door of the Landlords' store. The Landlords did not agree to proceeding on the monetary claims outlined in the Monetary Order Worksheet.

I told the Tenant there were two issues with the request for compensation. First, the Tenant should have filed an amendment adding a monetary claim to the Application. Second, even accepting that the Monetary Order Worksheet was sufficient as an amendment to the Application, it had to be served in accordance with section 89(1) of the *Residential Tenancy Act* which states:

89 (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents].

Here, the Tenant did not serve the Monetary Order Worksheet in accordance with section 89(1) of the *Act* and the Landlords testified that they did not receive the Monetary Order Worksheet or any indication that the Tenant was seeking compensation. In the circumstances, I told the Tenant I would not hear a request for compensation given the Application was not properly amended and given the Monetary Order Worksheet was not served in accordance with section 89(1) of the *Act* and the Landlords testified that they had no notice of the request. It is open to the Tenant to file an Application for Dispute Resolution with the RTB if he feels he is entitled to compensation in relation to this tenancy. This decision does not extend any time limits set out in the *Act* for doing so.

I told the parties I would hear them on the issue of reimbursement for the filing fee.

I explained the hearing process to the parties who did not have questions when asked. The parties provided affirmed testimony.

Both parties submitted evidence prior to the hearing. I addressed service of the hearing package and evidence. Landlord K.Y. confirmed receipt of the hearing package and first set of the Tenant's evidence.

The Tenant testified that he did not receive the Landlords' evidence. Landlord K.Y. testified that the evidence was sent March 02, 2020 by registered mail to the Tenant's PO box which he had during the tenancy. The Tenant confirmed he still has this PO box. Landlord K.Y. provided Tracking Number 1. I looked this up on the Canada Post website which shows a notice card was left in relation to the package March 03, 2020.

I am satisfied based on the testimony of Landlord K.Y., Tracking Number 1 and Canada Post website information that the evidence was served on the Tenant in accordance with section 88(c) of the *Act*. The Tenant is deemed to have received the package March 08, 2020 pursuant to section 90(a) of the *Act*.

The parties were given an opportunity to make relevant submissions. I have considered all submissions made. I will only refer to the evidence I find relevant in this decision.

Issues to be Decided

1. Is the Tenant entitled to reimbursement for the filing fee?

Background and Evidence

The parties agreed there was a written tenancy agreement between them in relation to the rental unit. The parties agreed the tenancy was a month-to-month tenancy. The parties agreed rent was \$550.00 per month due on the first day of each month.

The Tenant testified that the Landlords locked him out of the rental unit in January. The Tenant submitted that he is entitled to reimbursement for the filing fee because the Landlords evicted him unlawfully. The Tenant submitted that it is "frowned upon" for the Landlords to have gone into the rental unit, removed his belongings and changed the locks.

The Landlords acknowledged they served the Tenant with the One Month Notice submitted. The Landlords acknowledged they locked the Tenant out of the rental unit without authority under the *Act* to do so.

Analysis

Section 72(1) of the *Act* states:

72 (1) The director may order payment or repayment of a fee under section 59 (2) (c) [starting proceedings]...by one party to a dispute resolution proceeding to another party or to the director.

I am satisfied the Tenant was served with the One Month Notice submitted as the Landlords agreed with this. Pursuant to section 47(4) of the *Act*, the Tenant was entitled to dispute the One Month Notice. The Tenant did dispute the One Month Notice and sought further orders under the *Act*. The claims in the Application were no longer an issue at the time of the hearing because they all relate to an ongoing tenancy. The Tenant therefore withdrew the claims. However, the reason this tenancy was not ongoing was because the Landlords locked the Tenant out of the rental unit without authority under the *Act* to do so. If the Landlords had not done this, the claims would still have been an issue and I would have heard the dispute of the One Month Notice.

I am satisfied the Tenant is entitled to reimbursement for the filing fee and award the Tenant \$100.00 pursuant to section 72(1) of the *Act*. I issue the Tenant a Monetary Order for this \$100.00.

Conclusion

I am satisfied the Tenant is entitled to reimbursement for the filing fee and award the Tenant \$100.00. I issue the Tenant a Monetary Order in this amount. This Order must be served on the Landlords. If the Landlords do not comply with the Order, it may be filed in the Provincial Court (Small Claims) 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 18, 2020

Residential Tenancy Branch