



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GIBSON STERLING LTD./MARTELLO SERVICES
INC. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, MNDCT, FFT

Introduction

The tenants apply for a compliance order to maintain their right to quiet enjoyment of the premises as defined by s. 28 of the *Residential Tenancy Act* (the “RTA”) and particularly in regard to significant construction/repair work being done by the landlord to the designated heritage building in which their rental unit is located.

By a late amendment to the claim the tenants added a request for significant monetary compensation for the claimed loss of quiet enjoyment. They have filed an abundance of digital evidence in support of their claims but have not filed nor served the respondent with the material “not less than 14 days before the hearing”, as required by Rule 3.14 of the Rules of Procedure. The landlord objects to the method of service of the claim itself and to the late evidence.

The evidence in support of a claim for a compliance order is inextricably intertwined with that for the monetary claim. To have the compliance order claim heard separately from the monetary claim would result in the parties having to present the same evidence at two different hearings.

In these circumstances, with the agreement of the landlord, the tenants withdrew their application and I grant them leave to re-apply.

The parties should consult the Residential Tenancy Branch about the possibility of having the evidence already uploaded for this application applied or transferred to any new application the tenants bring.

I make no order about recovery of the filing fee for this application and authorize the tenants to include that claim in any subsequent application for this relief, to be left in the discretion of the arbitrator of that future claim.

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 24, 2020

Residential Tenancy Branch