



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding IMH POOL XVI LP C/O METCAP LIVING MANAGEMENT
INC and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNRL-S, MNDCL-S, FFL

Introduction

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

- an order of possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent and for compensation under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67;
- authorization to retain the tenants' security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two tenants, "tenant YM" and "tenant KL," did not attend this hearing, which lasted approximately 24 minutes. The landlord's agent ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord confirmed that is a paralegal working in the legal department of the landlord company named in this application and that she had permission to speak on its behalf.

Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* ("*Rules*") does not permit recording of a hearing by any party.

The landlord did not make any adjournment or accommodation requests.

At the outset of the hearing, the landlord confirmed that the tenants vacated the rental unit on April 1, 2021. She confirmed that the landlord did not require an order of possession. I informed her that this portion of the landlord's application was dismissed without leave to reapply. She confirmed her understanding of same.

The landlord stated that the name of tenant KL was incorrect on the landlord's records and in this application. She said that the name on tenant KL's driver's license and in the tenancy agreement were different than this application.

The landlord stated that the two tenants were served with the landlord's application for dispute resolution hearing package on March 10, 2021, by way of registered mail to the rental unit address where the tenants were residing until April 1, 2021. The landlord provided two Canada Post receipts and confirmed both tracking numbers verbally during the hearing. The landlord confirmed that tenant KL's name was indicated incorrectly on the registered mail receipt.

Preliminary Issue - Landlord's Monetary Claim

At the outset of the hearing, the landlord confirmed that she applied for a monetary order of \$3,886.00 plus the \$100.00 filing fee.

The landlord stated that she wanted to pursue an increased monetary claim in excess of \$9,000.00. She stated that new evidence regarding the increased monetary claim was uploaded online to the RTB website on June 6, 2021, the day before this hearing, but it was not served to the tenants.

I notified the landlord that she could not amend her application to increase her monetary claim at the hearing, when the landlord did not file or serve an amendment form to the tenants, the tenants did not have notice of same, the tenants did not attend this hearing to consent, and the landlord did not serve the new evidence to the tenants. I informed the landlord that all evidence was required to be served to the other party and the RTB at least 14 days prior to the hearing, in accordance with Rule 3.14 of the RTB *Rules*.

The landlord asked if she could pursue some monetary claims now and the rest in a future application. Rule 2.9 of the RTB *Rules* does not permit a party to divide or split their claims. I informed the landlord about this rule during the hearing and she confirmed her understanding of same.

I notified the landlord that she filed this application on February 25, 2021, after the tenancy ended on April 1, 2021. This hearing occurred on June 7, 2021, more than 2 months after this tenancy ended. The landlord had ample time to know the full details of this application and to amend it and serve notice and evidence to the tenants, prior to this hearing, but failed to do so.

I informed the landlord that the landlord's application was dismissed with leave to reapply, except for the order of possession and the \$100.00 filing fee which were dismissed without leave to reapply.

I notified her that the landlord could file a new application, pay a new filing fee and prove service in accordance with section 89 of the *Act*, if the landlord wished to pursue this matter in the future. The landlord confirmed her understanding of same. She claimed that she did not have a forwarding address for the two tenants.

Conclusion

The landlord's application for an order of possession and to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the landlord's application is dismissed with 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: June 07, 2021

Residential Tenancy Branch