



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDCT, PSF, OLC, LRE, RR, FFT

Introduction

This hearing was convened by way of conference call concerning an application made by the tenants seeking the following relief:

- an order cancelling a notice to end the tenancy for unpaid rent or utilities;
- a monetary order for money owed or compensation for damage or loss under the *Residential Tenancy Act*, regulation or tenancy agreement;
- an order that the landlord provide services or facilities required by the tenancy agreement or the law;
- an order that the landlord comply with the *Act*, regulation or tenancy agreement;
- an order limiting or setting conditions on the landlord's right to enter the rental unit;
- an order reducing rent for repairs, services or facilities agreed upon but not provided; and
- to recover the filing fee from the landlord for the cost of the application.

Both tenants and the landlord attended the hearing, and one of the tenants and the landlord each gave affirmed testimony. The parties were given the opportunity to question each other.

During the course of the hearing the parties agreed that a hearing was held on January 14, 2022 wherein the tenants had applied for an Order of Possession of the rental unit. The resulting Decision states that the parties had agreed that the tenants had vacated the rental unit and the landlord "took back possession of it." It also states that the parties agreed to meet today, January 18, 2022 at 5:00 p.m. for the tenants to retrieve some personal belongings. The tenant indicated that that is not what the tenants agreed to; the tenants did not agree for the landlord to take back the rental unit, but only agreed that the landlord has the tenants' belongings; the tenants were forced into the

agreement, had no choice, and will be filing an application for a review of that Decision. The tenant also indicated that the tenants assumed that this application would be heard prior to the January 14, 2022 hearing.

The landlord stated that the tenants have not served the landlord with the documents required for this hearing, and learned about this hearing yesterday when the landlord contacted the Residential Tenancy Branch about the Decision from the January 14, 2022 hearing. The landlord received a courtesy copy of the notice of this hearing. The landlord has provided a large amount of evidence today, none of which has been provided to the tenants; the landlord had no address to send the evidence to.

The tenant, in rebuttal indicated that the parties had been in communication by email and the tenant served the landlord by email within the time required by the *Act*.

The tenants' application was filed on September 7, 2021, and considering the tenant's submission that the tenants will be filing an Application for Review of the January 14, 2022 Decision, I ordered the landlord to refrain from re-renting until Decisions from all hearings and Review Considerations have been concluded.

With respect to the landlord's submission that the landlord has not been served with the Notice of Dispute Resolution Proceeding or any of the tenants' evidentiary material, I neglected to require the tenants to provide proof that the landlord was served, and I asked an Information Officer of the Residential Tenancy Branch to contact the tenants to give the tenants an opportunity to prove service. I received a response from the Information Officer indicating that the tenant was to email proof of service to the Information Officer, and nothing had been received. The Information Officer also agreed to contact the tenant again on January 20, 2022, and the tenant agreed to provide the proof of service within an hour, but no such evidence has been received.

I have also reviewed the case file from the previous hearing, and as of today, January 24, 2022 no Request for Review has been filed by the tenants.

Since the tenants have failed to provide proof of service to the landlord, and has failed to apply for a Review of the earlier Decision, I cannot change or rule upon a matter that has already been dealt with. Therefore, I dismiss the tenants' application for an order cancelling a notice to end the tenancy for unpaid rent or utilities. Since the tenancy has ended, I also dismiss the tenants' applications for an order that the landlord provide services or facilities, and for an order that the landlord comply with the *Act* or the tenancy agreement, and for an order limiting or setting conditions on the landlord's right

to enter the rental unit, and for an order reducing rent for repairs, services or facilities agreed upon but not provided, without leave to reapply.

The tenants' application for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement is hereby dismissed with leave to reapply.

Conclusion

For the reasons set out above, the tenants' application for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement is hereby dismissed with leave to reapply.

The balance of the tenants' application is hereby dismissed 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: January 24, 2022

Residential Tenancy Branch