



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes CNC, RP, FFT

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

- an order that the landlord make repairs to the rental unit pursuant to section 32;
- the cancellation of the One Month Notice to End Tenancy for Cause (the "**Notice**") pursuant to section 47; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The parties appeared before a different arbitrator of the Residential Tenancy Branch (the RTB) on April 25, 2023 who found that the tenancy ended on April 20, 2022:

The Tenant confirmed that she has vacated the rental unit as of April 20, 2022 and that she has no intentions on continuing the tenancy. The Tenant stated that she still has some of her personal property in the rental unit, however, due to concerns relating to the Landlord conducting renovations and the possibility of asbestos, the Tenant is hesitant to collect her remaining belongings.

[...]

I find that since the tenancy has ended, the Tenant's Application is now moot.

The tenant confirmed this at the hearing. She raised the issue as to whether she was an "overholding tenant" as contemplated by section 57 of the Act, given that her possessions are still in the rental unit, and asked if this meant the tenancy was continuing. I explained that being an overholding tenant does not mean the tenancy continues. Section 57 defines "overholding tenant" as a tenant who continues to occupy a rental unit after the tenant's tenancy is ended.

As such, I find that the tenancy ended on April 20, 2023 and the tenant's application is moot. I dismiss it 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: April 28, 2023

Residential Tenancy Branch