



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes TT: CNL, MNDCT, RR, FFT
 LL: OPL

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the Residential Tenancy Act (the “Act”).

The Tenants’ Application for Dispute Resolution was made on August 11, 2023 (the “Tenants’ Application”). The Tenants applied for the following relief, pursuant to the Act:

- an order cancelling the Two Month Notice to End Tenancy for Landlord’s Use of the Property (the “Two Month Notice”);
- a monetary order for damage or compensation;
- an order granting a rent reduction; and
- an order granting the recovery of the filing fee.

The Landlords’ Application for Dispute Resolution was made on October 10, 2023 (the “Landlords’ Application”). The Landlords applied for the following relief, pursuant to the Act:

- an order of possession based on the Two Month Notice.

The Tenant S.G., the Landlord A.F., and the Landlord’s Counsel J.L. attended the hearing at the appointed date and time.

At the start of the hearing, the parties mutually agreed to end the tenancy based on a Two Month Notice to End Tenancy for Landlord’s Use of the Property which had been served to the Tenants by the Landlords. The parties agreed that the tenancy will end on November 30, 2023 at 1:00PM. The parties agreed that the Landlord is entitled to an

Order of Possession effective at 1:00PM on November 30, 2023. This settlement agreement was reached in accordance with section 63 of the *Act*.

The Tenants had also submitted claims for monetary compensation. The Tenants provided a monetary order worksheet which they created, outlining their monetary claims totalling \$51,092.61, but were willing to accept \$35,000.00 which is the small claims limit.

Preliminary Matters

Section 58(2) of the *Residential Tenancy Act* and 51(2) of the *Manufactured Home Park Tenancy Act* provide that the director must not determine disputes involving claims for debts or damages if the monetary amount claimed exceeds the limit set out in the Small Claims Act. The limit is currently \$35,000. If a claim for debts or damages exceeds the small claims limit, a person must apply to the BC Supreme Court. The court then determines whether it will hear and determine the dispute or order that the director hear and determine the dispute.

In this case, the Tenants' claims total an amount greater than \$35,000.00. The Tenant was instructed that they must either pursue their monetary claim at BC Supreme Court, or reapply under the *Residential Tenancy Act* with a claim amount that does not exceed \$35,000.00. The Tenant requested to reduce their monetary claims to be within the \$35,000.00 small claims limit. The Landlord Counsel stated that it was not clear to the Landlord as to which claims were being pursued and which ones weren't, which makes it difficult to prepare a response.

According to Section 59 (2) An application for dispute resolution must;

- (a) be in the applicable approved form,
 - (b) **include full particulars of the dispute that is to be the subject of the dispute resolution proceedings**, and
 - (c) be accompanied by the fee prescribed in the regulations.
- (3) Except for an application referred to in subsection (6), a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director.
- (5) **The director may refuse to accept an application for dispute resolution if**
- (a) in the director's opinion, the application does not disclose a dispute that may be determined under this Part,
 - (b) the applicant owes outstanding fees or administrative penalty amounts under this Act to the government, or

(c) the application does not comply with subsection (2).

I find that proceeding with the Tenants' amended monetary claim at this hearing would be prejudicial to the Landlord, as the absence of particulars that set out how the Landlord arrived to a different amount other than the one listed in the monetary order worksheet is difficult, if not impossible, for the Landlord to adequately prepare a response to the Tenants' claims.

For these reasons, the Tenants' monetary claims are dismissed with leave to reapply. The Tenants are reminded to provide a detailed breakdown of his monetary claims and is encouraged to use the Monetary Worksheet available at www.rto.gov.bc.ca when submitting a monetary claim. The total amount being sought must be within the small claims limit in accordance with the *Act*.

The topic of dividing monetary claims came up during the hearing. The parties are at liberty to consult Policy Guideline 27 which states;

c. Dividing Claims

An applicant may not divide (or split) their claim between applications to avoid the monetary limit.

An applicant may bring more than one application even if the total combined amount of the applications is above the small claims limit so long as the claims are sufficiently distinct. In determining whether the claims are sufficiently distinct, the director will consider whether the claims arise from the same series of events or are integrally interwoven.

For example, say a tenant makes an application for dispute resolution seeking compensation for emergency repairs due to a leak in the roof and submits a second application seeking damages for property that was ruined because of the leak and compensation for loss of enjoyment of the property while there was a leak. In a situation like this, the total of the monetary compensation sought cannot exceed \$35,000 because both applications concern claims arising from the same series of events: the roof leak.

However, a tenant could make an application for dispute resolution seeking monetary damages of \$35,000 or less for loss of quiet enjoyment because the landlord unlawfully entered the rental unit, and a second application for dispute resolution seeking monetary damages of \$35,000 or less because the landlord terminated access to

utilities. Even if the total of the damages being sought between the two applications exceeds \$35,000, the director has jurisdiction over both applications because the claims do not stem from the same series of events. They also are not integrally interwoven. In this situation, both applications would rely on different evidence and findings of fact.

Conclusion

I order the parties to comply with the terms of their mutually settled agreement described above.

The Landlord has been granted an order of possession effective on November 30, 2023, at 1:00 p.m. This order must be served on the Tenants and may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

The Tenants' monetary claim is dismissed with leave to reapply as it does not meet the requirements under Sections 58(2) and 59(2) of the *Act*.

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: November 14, 2023

Residential Tenancy Branch