



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Codes: CNR, MNDC,OLC, LRE, AAT, RPP, FF, O

Introduction:

This was an application by the tenants for the following:

- to cancel a Notice to End the Tenancy for non-payment of rent dated July 14, 2015
- a monetary Order for compensation
- an Order that the landlord comply with the Act
- an Order that the landlord return the tenants' property
- an Order limiting the landlord's access to the unit
- allow tenants access to the unit
- to recover the filing fee, and
- other.

The landlord also made an application for an Order for Possession and a monetary Order for unpaid rent amounting to \$ 700.00.

Issues:

Are the tenants entitled to any relief aforementioned?

Is the landlord entitled to an Order for Possession and a monetary Order?

Background and Evidence:

A hearing was conducted in the presence of only the landlord. The tenants failed to attend the hearing which lasted ten minutes.

Upon the evidence of the landlord I find that the Notice to End a Residential Tenancy for non-payment of rent dated July 14, 2015 was served on July 17, 2015 by posting it to the tenants' door on July 14, 2015.

The landlord testified that he served his application for dispute resolution on the tenants by placing it on the tenant's car on July 23, 2015.

The landlord testified that the tenancy began some time in July of 2012 with rent in the amount of \$ 700.00 due each month. The tenants did not pay any security deposit. The landlord relied upon the 10 day Notice to End the Tenancy for non-payment of rent dated July 14, 2015 but admitted that the tenants paid all the disputed rent on July 15, 2015 by depositing the amount in the landlord's bank account.

The tenants deputed the notice and made other claims. The landlord requested an Order for Possession.

Analysis:

The tenants failed to participate in the hearing at the appointed time notwithstanding the elapse of **ten** minutes. Rule 10.1 of the Rules of Procedure provides:

Commencement of the dispute resolution proceeding

The dispute resolution proceeding must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the dispute resolution proceeding in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

The tenants' applications are dismissed without liberty to reapply.

The landlord relied upon a Notice to End the Tenancy for Non-payment of Rent dated July 14, 2015 claiming that rent in the amount of \$ 700.00 was owing. The landlord admitted that the tenants paid all of the outstanding rent on July 15, 2015, within the 5 days required by the Notice.

Section 46 of the Act provides:

Landlord's notice: non-payment of rent

46 (1) A landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

(2) A notice under this section must comply with section 52 *[form and content of notice to end tenancy]*.

(3) A notice under this section has no effect if the amount of rent that is unpaid is an amount the tenant is permitted under this Act to deduct from rent.

(4) Within 5 days after receiving a notice under this section, the tenant may

(a) **pay the overdue rent, in which case the notice has no effect, or**

(b) dispute the notice by making an application for dispute resolution. (my emphasis added)

I find that by the tenants paying all of the outstanding rent within the required 5 days and operation of section 46 of the Act the Notice has no effect whether or not the tenants disputed it or attended the hearing.

The tenants made other claims but failed to attend the hearing. I have dismissed all of the tenants' other applications.

The landlord made a monetary claim for outstanding rent in the amount of \$ 700.00. The landlord failed to serve the tenants with his application in accordance with section 88 and 89 of the Act and has admitted that the tenants paid all of the outstanding rent within 5 days permitted by the Notice and section 46 of the Act. I have therefore dismissed all of the landlord's applications as well.

Conclusion:

The Notice to End the Tenancy dated July 14, 2015 is of no effect. The tenancy is confirmed. I have dismissed all of the tenants' other applications and dismissed all of the landlord's applications. There will not be any recovery of the filing fee to either party.

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 29, 2015

Residential Tenancy Branch

