



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing dealt with a landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "*Act*") to obtain an order of possession for unpaid rent or utilities, a monetary order for unpaid rent or utilities, and to recover the cost of the filing fee.

An agent for the landlord (the "agent") appeared at the teleconference hearing and gave affirmed testimony. During the hearing the agent was given the opportunity to provide his evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing"), Application for Dispute Resolution (the "Application") and documentary evidence were considered. The agent testified that the tenants were served with the Notice of Hearing, Application and documentary evidence by registered mail on October 23, 2015. Two registered mail tracking numbers were provided in evidence and according to the online registered mail tracking website, the tenants signed for and successfully received their own registered mail packages both on October 28, 2015. Based on the above, I find that the tenants were served in accordance with the *Act* on October 28, 2015, the day both tenants signed for and accepted their registered mail packages.

Preliminary and Procedural Matters

The agent stated that the landlord was no longer seeking an order of possession or unpaid rent as the tenants paid the unpaid rent for October 2015, albeit late and not within the 5 days after being served with the 10 Day Notice dated October 6, 2015. The agent stated that while he agrees to continue the tenancy, he does want to recover the

cost of the filing fee. As a result, the hearing continued to determine if the 10 Day Notice was valid and if the landlord is entitled to recover the cost of the filing fee.

Issue to be Decided

- Is the landlord entitled to recover the cost of the filing fee under section 72 of the *Act*?

Background and Evidence

The landlord testified that a fixed term tenancy began on September 12, 2015. Currently rent in the amount of \$1,044.44 is due on the first day of each month. The tenants paid \$375.00 as a security deposit at the start of the tenancy.

The landlord testified that he served a 10 Day Notice for Unpaid Rent or Utilities (the “10 Day Notice”) dated October 6, 2015 by posting it to the tenants’ door on October 6, 2015. The 10 Day Notice indicates that the tenants failed to pay \$1,084.44 due on October 1, 2015. The effective vacancy date was October 19, 2015. The landlord stated that the tenants paid the full amount owing on October 29, 2015 which was well after the 5 days provided for under section 46 of the *Act*, however, the agent stated that as rent has been fully paid up, the landlord no longer wants to end the tenancy, and will be satisfied with just the recovery of the \$50.00 filing fee.

Analysis

Based on the documentary evidence and the undisputed oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

I find the 10 Day Notice dated October 6, 2015 is valid, and have considered that the landlord no longer is seeking to end the tenancy and is no longer seeking an order of possession as a result. I have also considered the agent’s request for the filing fee only. As the 10 Day Notice was valid, I find the landlord is entitled to the recovery of the filing fee of **\$50.00** and that the tenancy will continue until ended in accordance with the *Act*.

Monetary Order – I find that the landlord has established a total monetary claim in the amount of **\$50.00** comprised of the recovery of the cost of the filing fee. Therefore, I grant the landlord a monetary order pursuant to section 67 of the *Act* in the amount of **\$50.00**.

Conclusion

The landlord is granted the recovery of the filing fee by way of a monetary order in the amount of \$50.

The tenancy shall continue until ended in accordance with the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: December 17, 2015

Residential Tenancy Branch

