



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNR, MNDC, MNSD, RR

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy and a monetary order.

The hearing was conducted via teleconference and was attended by the tenant.

The tenant testified the landlord was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* personally on September 12, 2016 in accordance with Section 89 and that this service was witnessed by a third party.

Based on the undisputed testimony of the tenant, I find that the landlord has been sufficiently served with the documents pursuant to the *Act*.

Residential Tenancy Branch Rule of Procedure 2.3 states that claims made in an Application for Dispute Resolution must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

It is my determination that the priority claim regarding the 10 Day Notice to End Tenancy for Unpaid Rent and the continuation of this tenancy is not sufficiently related to the tenant's claim for a monetary order for compensation for emergency repairs; for return of the security deposit; and for an order reducing rent. The parties were given a priority hearing date in order to address the question of the validity of the Notice to End Tenancy.

The tenant's monetary claim is unrelated in that the basis for it rests largely on facts not germane to the question of whether there are facts which establish the grounds for ending this tenancy as set out in the 10 Day Notice. I exercise my discretion to dismiss

the tenant's claim for a monetary order and for a rent reduction. I grant the tenant leave to re-apply for her monetary claims.

I note that Section 55 of the *Act* requires that when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 10 Day Notice to End Tenancy for Unpaid Rent; to a monetary order for the cost of emergency repairs; for return of the security deposit and a rent reduction, pursuant to Sections 33, 38, 46, 65, 67, and 72 of the *Act*.

Should the tenant be unsuccessful in seeking to cancel the 1 Month Notice to End Tenancy for Cause it must also be decided if the landlord is entitled to an order of possession pursuant to Section 55(1).

Background

The tenant submitted into evidence a copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued on September 2, 2016 with an effective vacancy date of September 12, 2016 due to \$880.00 in unpaid rent.

Analysis

Section 46 of the *Act* states 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 on a date that is not earlier than 10 days after the date the tenant receives the notice. A notice under this section must comply with Section 52 of the *Act*.

As the landlord has failed to attend this hearing and present his grounds for issuing the 10 Day Notice to End Tenancy for Unpaid Rent, I find the landlord has failed to establish that he has grounds to end this tenancy.

Conclusion

Based on the above, I order the 10 Day Notice to End Tenancy for Unpaid Rent issued on September 2, 2016 is cancelled and the tenancy remains in full force an effect.

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 01, 2016

Residential Tenancy Branch