



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, FF

Introduction

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

- more time to make an application to cancel the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 66;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

The landlord participated in the teleconference, the tenant did not. The tenant is the applicant in this matter and chose not to dial into the conference call or submit any documentation. As the tenant is the applicant, they were fully aware of the date of today's hearing, time and passcode. The teleconference proceeded in the absence of the tenant. The landlord submitted documentation for this hearing and gave sworn testimony that the tenant was served that documentation on March 2, 2017 by way of posting it on the tenants' door. Based on the above, I find that that the tenant has been served the landlords evidence in accordance with Section 88 of the Act and deemed served three days later in accordance with Section 90 of the Act.

Preliminary Issue

The tenant received the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on February 9, 2017 and filed their application the following day. The tenant has filed their application within the legislated timeline and does not need more time to file their application, accordingly; that portion of their application is dismissed.

Issues(s) to be Decided

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Is the tenant entitled to recover the filing fee for this application from the landlord?

Background and Evidence

The landlord gave the following testimony. The tenancy began on or about May 1, 2016 for a one year term until April 30, 2017. Rent in the amount of \$1125.00 is payable in advance on the first day of each month. The tenant failed to pay rent in the month(s) of February and on February 9, 2017 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) March. The landlord advised that as of today's hearing the amount of unpaid rent is \$2250.00. The landlord testified that the tenant has not made any payments or any arrangements with them to try to resolve the matter. The landlord testified that they are seeking an order of possession.

Analysis

10 Day Notice Requirements

Section 46(1) of the *Act* establishes how a landlord may end a tenancy for unpaid rent "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." Section 46(2) of the *Act* requires that "a notice under this section must comply with section 52 *[form and content of notice to end tenancy]*."

Section 52 of the *Act* reads in part as follows:

- 52 *In order to be effective, a notice to end tenancy must be in writing and must...*
- (a) be signed and dated by the landlord or tenant giving the notice,*
 - (b) give the address of the rental unit,*
 - (c) state the effective date of the notice,*
 - (d) except for a notice under section 45(1) or (2) [tenant's notice], state the grounds for ending the tenancy, and*
 - (e) when given by a landlord, be in the approved form.*

I find that the landlords notice meets the above requirements. In addition, the landlord provided undisputed testimony and documentary evidence to show that the tenant has not paid rent for February and March 2017. Although the tenant has filed to dispute the notice, they have not provided sufficient evidence to have it set aside.

Based on the above, I find that the landlord is entitled to an Order of Possession pursuant to Section 55 of the *Act*, which must be served on the tenant(s). The notice is

of full effect and force. The tenancy is terminated. The tenant has not been successful in their application.

Conclusion

The landlord is granted an order of possession. The tenancy is terminated. The tenant's application is dismissed in its entirety.

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: March 14, 2017

Residential Tenancy Branch