



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LAKESIDE LAND DEVELOPMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, CNR, LRE, OLC, MNR, OPR

Introduction

This hearing was convened in response to applications by the landlords and the tenant.

The landlords' application is seeking orders as follows:

1. For an order of possession;
2. For a monetary order for unpaid rent; and
3. To recover the cost of filing the application.

The tenant's application is seeking orders as follows:

1. To cancel a 10 Day Notice to End Tenancy for Unpaid rent;
2. To cancel a 1 Month Notice to End Tenancy for Cause;
3. To have the landlord comply with the Act, regulation or tenancy agreement;
4. To suspend or set condition on the landlord's right to enter; and
1. To recover the cost of filing the application.

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the tenant indicated several matters of dispute on the Application for Dispute Resolution, the most urgent of which is the application to set aside the Notice to End Tenancy.

I find that not all the claims on this Application for Dispute Resolution are sufficiently related to be determined during these proceedings. I will, therefore, only consider the tenant's request to set aside the Notice to End Tenancy. The balance of the tenant's application is dismissed, with leave to reapply.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to relevant facts and issues in this decision.

Issue to be Decided

Should the 10 Day Notice to End Tenancy for Unpaid rent be cancelled?

Should the 1 Month Notice to End Tenancy for Cause be cancelled?

Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The tenant testified that they attempted to pay rent on February 28, 2017, when it was refused by the landlord.

The tenant testified that they received the 10 Day Notice to End Tenancy for Unpaid rent on March 9, 2017. The tenant stated that they made no effort to pay the rent after the notice was received and that they agreed rent for March and April 2017, has not been paid.

The landlord stated that a dispute arose on February 28, 2017, and there was police involvement. The landlord seeks an order of possession and a monetary order for unpaid rent in the amount of \$1,450.00

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

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].

(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.

I accept the undisputed evidence of the tenant that they received the 10 Day Notice to End Tenancy for Unpaid Rent on March 9, 2017.

Even If I accept the evidence of the tenant that there was a dispute with the landlord on February 28, 2017. It was the tenant's responsible to pay rent within 5 days after receiving the notice to end tenancy. The evidence of the tenant was that they made no attempt to pay the rent since the notice to end tenancy was received and rent for March 2017 and April 2017, are owing.

Although the tenant disputed the notice to end tenancy within the five day, I find the tenant's application has no merit. As they admitted rent has not been paid and no effort has been made to pay the rent since receiving the notice, such as sending the rent by registered mail to the service address stated in the notice to end tenancy. Therefore, I find the notice to end tenancy valid. Therefore, I dismiss the tenant's application to cancel the notice without leave to reapply.

As I have ended the tenancy based on unpaid rent, I find it not necessary to consider the merits of the 1 Month Notice to End Tenancy for Cause.

As the tenant was not successful with their application the tenant is not entitled to recover the filing fee from the landlords

As the tenant's application is dismissed and the landlord requested an order of possession at the hearing, pursuant to section 55 of the Act, I must grant this request.

Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

(a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

The evidence of the tenant was rent for March and April 2017, has not been paid. I find that the landlords have established a total monetary claim of **\$1,550.00** comprised of unpaid rent for March 2017 and April 2017 and the \$100.00 fee paid for this application.

Conclusion

The tenant's application is dismissed. The landlords are granted an order of possession and a monetary order for unpaid rent.

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: April 12, 2017

Residential Tenancy Branch