



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR

Introduction

This hearing dealt with the landlords' Application for Dispute Resolution, seeking an order of possession for unpaid rent or utilities and a monetary order for unpaid rent or utilities. Originally, the landlords applied through the Direct Request Process under the *Residential Tenancy Act* (the "Act") which was adjourned to a participatory hearing as the landlords failed to provide page two of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice"). An Interim Decision dated March 27, 2017 was issued which should be read in conjunction with this decision.

The landlords and the tenant attended the reconvened teleconference hearing and were affirmed. During the hearing the parties were given the opportunity to provide their evidence orally. I have reviewed all oral and documentary evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Neither party raised any concerns regarding the service of documentary evidence.

Issues to be Decided

- Are the landlords entitled to an order of possession for unpaid rent or utilities?
- Are the landlords entitled to a monetary order for unpaid rent or utilities, and if so, in what amount?

Background and Evidence

The landlords submitted a copy of the tenancy agreement. Although the landlords claim the tenancy was a fixed term tenancy I disagree as section 7 of the tenancy agreement clearly indicates that the tenancy agreement is a month to month tenancy. The tenancy began on September 1, 2014. The parties agreed that monthly rent was originally

\$1,000.00 and was increased during the tenancy to the current amount of \$1,050.00 per month.

The 10 Day Notice submitted in evidence was not fully dated. The landlords were asked how much rent was owed by the tenant as of the date of the hearing to which the landlords could not answer my question. The landlords were provided additional time to determine how much rent was owed and they were unable to provide that information.

Analysis

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

Firstly, regarding the landlords' monetary claim, as the landlords were unable to determine the amount of monthly rent owed as of the date of the hearing, I dismiss their application for unpaid rent or utilities **with leave to reapply**.

Regarding the landlord's request for an order of possession, section 52 of the *Act* states:

Form and content of notice to end tenancy

52 In order to be effective, a notice to end a 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.**

[My emphasis added]

Based on the 10 Day Notice not being fully dated and without having page two of the 10 Day Notice which the landlords were advised of in the Interim Decision, I find the 10 Day Notice is invalid and is cancelled as a result. Therefore, I find the 10 Day Notice is of **no force of effect**.

I ORDER that the tenancy continue until ended in accordance with the *Act*.

Conclusion

I dismiss the landlords' application for unpaid rent or utilities with leave to reapply.

I cancel the undated 10 Day Notice and find that it is of no force or effect.

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: May 2, 2017

Residential Tenancy Branch