



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, ERP, LRE, OLC, PSF, RP, FF

Introduction

On May 23, 2017, the Tenant made an Application for Dispute Resolution to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (“the Notice”) dated April 12, 2016.

The matter was set for a conference call hearing at 9:00 a.m. on this date. The Landlord attended the hearing; however, the Tenants did not. The line remained open while the phone system was monitored for 15 minutes and the Tenants did not call into the hearing during this time. Therefore, as the Applicants did not attend the hearing by 9:15 AM, I dismiss the application to cancel the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

The Landlord was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all oral and written 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.

Preliminary Issues

The Tenants applied to dispute a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, but did not provide a copy of the Notice.

Neither the applicant nor respondent submitted any documentary evidence to the Residential Tenancy Branch in advance of this hearing.

The Landlord provided affirmed testimony regarding the 10 Day Notice during the hearing and provided a copy of the 10 Day Notice via fax at the conclusion of the hearing.

Issues to be Decided

- Did the Tenants pay the rent due under the tenancy agreement within 5 days of receiving a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities?
- Is the Landlord entitled to an order of possession?

Background and Evidence

The Landlord testified that the tenancy began in April 2015. Rent in the amount of \$1,850.00 per month is to be paid on the first day of each month. The Tenants paid a security deposit in the amount of \$900.00.

The Landlord testified that the 10 Day Notice was served on the Tenant on May 17, 2017, by handing the Notice to the Tenants. The Landlord provided a copy of the 10 Day Notice dated May 17, 2017. The Notice indicates the Tenants have failed to pay rent in the amount of \$925.00 that was due on May 1, 2017.

The Notice informed the Tenants that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenant had five days to dispute the Notice.

The Tenants disputed the Notice within the required time limit, but failed to attend the hearing.

The Landlord testified that she did not receive the rent owing under the tenancy agreement within five days of issuing the 10 Day Notice.

The Landlord testified that she received a payment of \$925.00 for rent on June 5, 2017.

Section 46 of the Act states that 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.

Analysis

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

I find that the Tenants did not pay the rent owing under the tenancy agreement for the month of May 2017, within five days of receiving the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated May 17, 2017. The Tenants failed to attend the hearing. I dismiss the Tenant's application to cancel the 10 Day Notice dated May 17, 2017.

Under section 55 of the Act, when a Tenants application to cancel a Notice to end tenancy is dismissed and I am satisfied that the notice to end tenancy complies with the requirements under section 52 regarding form and content, I must grant the Landlord an order of possession.

I find that the Notice complies with the requirements for form and content and I find that the Landlord is entitled to an order of possession effective 2 (two) days, after service on the Tenants. This order may be filed in the Supreme Court and enforced as an order of that Court.

Conclusion

The Tenant's application is dismissed. The Landlord is granted an order of possession effective two (2) days after service on the Tenants.

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: June 15, 2017

Residential Tenancy Branch