



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OLC

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

1. An Order cancelling a notice to end tenancy - Section 46; and
2. An Order for the Landlord's compliance - Section 63.

The Tenant did not attend the hearing and the Landlord attended ready to proceed. As the Tenant did not appear to pursue its application I dismiss the Tenant's application without leave to reapply. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Background and Evidence

The tenancy started on October 1, 2017. Rent of \$950.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$475.00 as a security deposit. The Landlord states that the Tenant owes the Landlord for damages to the unit so the Landlord served the Tenant with a 10 day notice to end tenancy for unpaid rent of \$2,182.50 (the "Notice") on October 3, 2017 by posting the Notice on the door of the rental unit. The Landlord states that the Tenant does not owe any rents and that they are paid by a third party on the Tenant's behalf. The Landlord did not provide a copy of this Notice and states that no effective move out date was noted on the Notice.

Analysis

Section 46(1) of the Act provides 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. Section 55(1) provides that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, an order of possession must be granted to the landlord if, the notice to end tenancy complies in form and content and the tenant's application is dismissed or the landlord's notice is upheld. Section 52 of the Act provides that In order to be effective, a notice to end a tenancy must be in writing and must, inter alia,

- (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.

Although the Tenant's application has been dismissed, based on the Landlord's evidence that no rents are owed and as the Notice does not carry any effective date I find that the Notice is neither valid nor effective. As such the Landlord is not entitled to an order of possession.

Conclusion

The Tenant's application is dismissed. The Landlord is not entitled to an order of possession.

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: December 19, 2017

Residential Tenancy Branch