



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDC

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) filed by the Tenant under the *Residential Tenancy Act* (the “Act”), seeking a Monetary Order and to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10 Day Notice”).

I note that Section 55 of the *Act* requires that when a tenant submits an Application seeking to cancel a Notice to End Tenancy issued by a landlord, I must consider if the landlord is entitled to an Order of Possession if the Application is dismissed and the landlord has issued a Notice to End Tenancy that is compliant with section 52 of the *Act*.

The hearing was convened by telephone conference call and was attended by the Landlord, who provided affirmed testimony. The Tenant did not attend. The Landlord attended the hearing at the scheduled time, ready to proceed, and 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 evidence and testimony before me that met the requirements of the rules of procedure; however, I refer only to the relevant facts and issues in this decision. At the request of the Landlord, a copy of the Decision and any Order of Possession issued will be e-mailed to them at the e-mail address provided in the hearing.

Preliminary Matters

I identified that the Applicant, who did not appear at the hearing, did not submit a copy of the 10 Day Notice for consideration. Although the Landlord testified that they believe that the Tenant moved out of the rental unit approximately one month ago, they requested an Order of Possession be issued in the event that the Tenant’s Application is dismissed. As a result, I requested that the Landlord submit to the Residential Tenancy Branch (the “Branch”) a copy of the 10 Day Notice for my consideration no later than 12:00 P.M. on January 11, 2017. I advised the Landlord that if the 10 Day Notice was not received, I would render my decision without consideration of it.

I provided the Landlord with several options to submit the 10 Day Notice to the Branch and although I waited longer than the timeframe noted above, the Landlord did not submit a copy of the 10 Day Notice for my consideration. As a result, I have rendered my decision without consideration of it.

Issue(s) to be Decided

Is there a valid reason to cancel the 10 Day Notice under the *Act*?

If the Tenant is unsuccessful in seeking to cancel the 10 Day Notice, is the Landlord entitled to an Order of Possession pursuant to section 55(1) of the *Act*?

Is the Tenant entitled to a Monetary Order pursuant to section 67 of the *Act*?

Background and Evidence

The Tenant applied to cancel the 10 Day Notice; however, they did not submit a copy of the 10 Day Notice for my consideration or appear at the hearing of their own Application to provide any evidence or testimony.

Analysis

As the Tenant failed to attend the hearing to present any evidence or testimony in support of their Application, their Application seeking a Monetary Order in the amount of \$240.00 for leaks in the plumbing system and cancellation of the 10 Day Notice is dismissed without leave to reapply.

Although the Tenant's Application is dismissed, I do not have a copy of the 10 Day Notice before me for consideration and I therefore cannot verify whether it complies with section 52 of the *Act*. As a result, I am unable to issue an Order of Possession pursuant to section 55 of the *Act*.

Conclusion

The Tenant's Application is dismissed in its entirety without leave to reapply.

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: January 12, 2018

Residential Tenancy Branch