



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “Act”).

The Landlord filed an Application requesting an order of possession for the rental unit due to unpaid rent and /or utilities; for a monetary order for unpaid rent and utilities; and to recover the cost of the filing fee.

The Tenant filed an Application requesting to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities; to suspend or set conditions on the Landlords right of entry; for the Landlord to comply with the Act, Regulation, or tenancy agreement; and for emergency repairs to the rental unit.

The matter was set for a conference call hearing at 9:00 a.m. on this date. The Landlord attended the teleconference hearing; however, the Tenant did not. The Landlord testified that he served the Tenant with the Application for Dispute Resolution and Notice of Hearing, in person on February 16, 2018. I find that the Tenant has been duly served in accordance with the Act.

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

Issues to be Decided

- Is the Landlord entitled to an order of possession for the rental unit?
- Is the Landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The Landlord testified that the tenancy began on March 1, 2017, as a month to month tenancy. The parties mutually agreed on a rent increase on July 28, 2017. Rent in the amount of \$1,865.00 is to be paid on or before the last day of each month.

The Landlord testified that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated January 31, 2018. The Landlord testified that the Notice was posted to the Tenant's door on February 1, 2018.

The Notice states that the Tenant has failed to pay rent in the amount of \$1,865.00 which was due on January 31, 2018. The Notice informed the Tenant 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 Landlord testified that the Tenant did not pay the rent due under the tenancy agreement within 5 days of receiving the 10 Day Notice. The Landlord testified that he has not received the rent for the months of February 2018, March 2018, and April 2018. The Landlord testified that the Tenant owes \$5,595.00 for unpaid rent. The Landlord requested that his application be amended to include unpaid rent for March 2018, and April 2018.

The Landlord testified that the Tenant is still living in the rental unit.

The Landlord is also seeking to recover utilities in the amount of \$192.00. The Landlord testified that he did not issue the Tenant a written demand letter to pay the utilities.

The Tenant disputed the 10 Day Notice on February 5, 2018, within the required timeframe. The Tenant failed to attend the hearing.

The Landlord seeks an order of possession for the rental unit and a monetary order for \$5,595.00 in unpaid rent.

Analysis

Section 26 of the Act states that a Tenant must pay the rent when it is due under the tenancy agreement, whether or not the Landlord complies with the Act, the regulations, or the tenancy agreement, unless the Tenant has a right under this Act to deduct all or a portion of the rent.

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I make the following findings:

The Tenant disputed the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated January 31, 2018, but failed to attend the hearing. I therefore dismiss the Tenant's application to cancel the 10 Day Notice.

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 10 Day 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 Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

I find that the Tenant has failed to pay the rent owing under the tenancy agreement. I grant the Landlord's request to amend his claim for rent to include March 2018, and April 2018. The Tenant is living in the rental unit and knows that rent is due on the last day of each month. The Landlord has suffered a loss of rent in the amount of \$5,595.00. The Tenant was served with the Landlord's notice of hearing documents and failed to attend the hearing.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I grant the Landlord a monetary order in the amount of \$5,695.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

The Landlord did not issue the Tenant a written demand letter for payment of the utility costs. The Landlord's claim for utilities is dismissed with leave to reapply.

Conclusion

The Tenant failed to pay the rent due under the tenancy agreement and did not pay the rent within five days of receiving a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

The Landlord is granted an order of possession effective two (2) days after service on the Tenant

The Landlord is granted a monetary order in the amount of \$5,695.00 for unpaid rent and the cost of the filing fee.

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 17, 2018

Residential Tenancy Branch