



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR MNR MNSD FF / CNR ERP RP PSF LRE RR

Introduction

This hearing dealt with the cross applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for orders as follows:

Landlord:

- an order of possession for failure to pay rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant’s security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

Tenant:

- cancellation of the landlord’s 10 Day Notice to End Tenancy for unpaid rent (the 10 Day Notice) pursuant to section 46;
- authorization to change the locks and/or to suspend or set conditions on the landlord’s right to enter the rental unit pursuant to section 70;
- an order to the landlord to make emergency repairs to the rental unit pursuant to section 33;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;

All named parties attended the hearing.

Preliminary and Procedural Matters – Service of Landlord’s Applications & Scope of Tenant’s application

The Landlord acknowledged service of the tenant's application. The tenant testified that she was not served with the landlord's application.

The landlord's witness S.M. testified that he served a copy of the landlord's application to the tenant by registered mail on April 15, 2018 and he also posted a copy of the application to the tenant's door on April 14, 2018. S.M. provided a registered mail tracking number in support of service during the hearing. A review of the Canada Post online delivery status confirms that a package was sent by registered mail on April 15, 2018 and on May 3, 2018 the item was refused by the recipient.

Based on the above evidence, I am satisfied that the tenant was deemed served with the Landlord's Application for Dispute Resolution pursuant to sections 89 & 90 of the Act.

Residential Tenancy Branch Rules of Procedure, Rule 2.3 states that, if, in the course of the dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so, the Arbitrator may sever or dismiss the unrelated disputes contained in a single application with or without leave to apply.

Aside from the tenant's application to cancel the Notice to End Tenancy, I am exercising my discretion to dismiss the remainder of the issues identified in the tenants' application with leave to reapply as these matters are not related. Leave to reapply is not an extension of any applicable time limit.

Settlement of dispute relating to 10 Day Notice to End Tenancy

Pursuant to section 63 of the Act, an arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. The parties expressed an interest and were successful in resolving the dispute relating to the Notice to End Tenancy by mutual agreement under the following final and binding terms:

1. The parties agreed that including the rent payable for the month of June 2018, the tenant is in rent arrears of \$4400.00.
2. The tenant agrees to pay to the landlord the full rent arrears of \$4400.00 by money order on or before June 4, 2018.
3. The landlord agrees to accept any method of payment for all future rent payments, including but not limited to cash, cheque, bank draft and/or electronic mail transfer. The landlord was not agreeable to completing an "intent to rent" form which would allow the tenant to have her rent paid directly to the landlord from the Ministry of Social Development. The landlord has no obligation under the Act to agree to such.

Each party confirmed that this agreement was reached voluntarily and that they understood the terms of the agreement. The parties agreed that these particulars comprise the full and final settlement of the dispute relating to the Notice to End Tenancy.

This Decision and Settlement Agreement is final and binding on both parties.

The tenant is hereby advised that section 26 of the Act, places the obligation on a tenant to pay rent when it is due whether or not the landlord complies with the Act, unless the tenant has a right under this Act to deduct or withhold all or a portion of the rent. I note that previous decisions may have permitted the tenant to withhold cash rent payments until such time that the landlord requested payment and issued a receipt. However, in both of these previous decisions, the Arbitrators made a finding that the landlord was only willing to accept cash as the form of payment but then refused to provide receipts. As noted above, the landlord in this hearing has agreed to accept any other method of payment for all future rent payments.

If the landlord continues to refuse to issue cash receipts or accept future cash rent payments, the obligation is on the tenant to attempt to pay the rent by any other means available and to provide proof of such. If the landlord refuses even other means of rent payments, the onus is on the tenant to provide proof of any "attempts" to pay rent such as electronic transfer receipts, proof of cheque or money order being delivered to the landlord in person or by mail.

If the agreed upon rent arrears of \$4400.00 is not paid on or before June 4, 2018, the landlord is at liberty to re-issue a new 10 Day Notice to End Tenancy.

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 01, 2018

Residential Tenancy Branch