



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OLC, FFT
 OPRM-DR, FFL

Introduction

This hearing dealt with applications from both the tenant and the landlord pursuant to the *Residential Tenancy Act* (the *Act*).

The tenant applied for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent pursuant to section 46 of the *Act*;
- an order requiring the landlord to comply with the *Act*, regulations or tenancy agreement pursuant to section 62 of the *Act*; and
- recovery of the filing fee for the application from the landlord pursuant to section 72 of the *Act*.

The landlord applied for:

- an Order of Possession for Unpaid Rent, pursuant to sections 46 and 55 of the *Act*;
- a Monetary Order for unpaid rent pursuant to section 67 of the *Act*; and
- recovery of the filing fee for this application from the tenant pursuant to section 72 of the *Act*.

The tenant's advocate appeared at the date and time set for the hearing of this matter, and spoke on behalf of the tenant in the tenant's absence. The landlord did not attend this hearing, although I left the teleconference hearing connection open until 10:02 a.m. in order to enable the landlord to call into this teleconference hearing scheduled for 9:30 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I also confirmed from the

teleconference system that the tenant's advocate and I were the only ones who had called into this teleconference.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing – If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application with or without leave to reapply.

Accordingly, in the absence of any evidence or submissions from the landlord, I order the landlord's application dismissed in its entirety, without liberty to reapply.

Preliminary Issue – Service of Documents

The tenant had not uploaded any documentary evidence to prove that she had served the landlord with the Notice of Dispute Resolution Proceeding package for her application. The tenant's advocate was unable to provide any testimonial evidence to confirm this had been done. However, the landlord had included in the documentary evidence she submitted for her application a copy of the tenant's Notice of Dispute Resolution Proceeding application, in which she had written comments on the particulars of the tenant's claim.

Section 71(2)(c) of the *Act* allows me to determine if a document not served in accordance with section 89 of the *Act* is "sufficiently given or served for purposes of this *Act*." In this case, I am satisfied that the landlord was in receipt of the tenant's Notice of Dispute Resolution Proceeding and was sufficiently aware of the nature of the tenant's claim against her. Therefore, I find that landlord was sufficiently served pursuant to section 71(2)(c) of the *Act*.

Preliminary Issue – Tenancy has Ended

At the outset of the hearing, the tenant's advocate confirmed the documentary evidence, submitted by both the tenant and the landlord, stating that the tenancy had ended on May 15, 2018 and that the tenant no longer resides at the dispute address.

I find that since the tenancy has ended, the tenant's application requesting to cancel the notice to end tenancy and to have the landlord comply with the *Act*, regulations or tenancy agreement are now moot considerations. As such, I find I have no matters

requiring resolution pursuant to the *Act* before me, and therefore I dismiss the tenant's application in its entirety, without leave to reapply.

Issue(s) to be Decided

Should the landlord's 10 Day Notice to End Tenancy for Unpaid Rent be cancelled? If not, is the landlord entitled to an Order of Possession on the basis of the 10 Day Notice?

Is the landlord entitled to a monetary award for unpaid rent?

Should the landlord be ordered to comply with the *Act*, regulations or tenancy agreement?

Is either party entitled to the recovery of the filing fee against the other party?

Conclusion

As noted above, I dismiss the landlord's application in its entirety, without leave to reapply, and I also dismiss the tenant's application 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: June 11, 2018

Residential Tenancy Branch