



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes CNR PSF AAT FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of a 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 46 (the 10 Day Notice);
- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- an order to allow access to or from the rental unit or site for the tenant or the tenant's guests pursuant to section 70;
- authorization to recover the filing fee for this application pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing. The landlord confirmed service of the tenant's application.

At the outset of the hearing, the parties advised that this tenancy has ended since the filing of this application as the tenant vacated the rental unit on August 31, 2018.

Therefore, the tenant's application to cancel the 10 Day Notice and for orders for the landlord to provide services or facilities and access to the rental unit are now moot. I make no finding on the merits of these portions of the tenant's application.

The tenant wished to pursue his claim for recovery of the filing fee on the grounds that the landlord falsely issued a 10 Day Notice on August 2, 2018. The tenant argues that the landlord had issued a 2 Month Notice on July 23, 2018 so he was entitled to withhold rent for the last month of August 2018. The tenant acknowledged that he did not provide any written notice to the landlord to end the tenancy before the effective day of the 2 Month Notice.

I find the landlord was well within her right under the Act to issue a 10 Day Notice. The landlord issued the 10 Day Notice after the tenant failed to pay rent for August 2018.

The last month free pursuant to the 2 Month Notice would have been for September 2018 rent as the notice had an effective date of October 1, 2018. The tenant did not notify the landlord in writing that he would be ending the tenancy earlier than October 1, 2018 as required by section 50 of the Act.

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: October 01, 2018

Residential Tenancy Branch