



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNR, AAT, AS, FFT

Introduction

This hearing was convened in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied to set aside a Notice to End Tenancy for Unpaid Rent; for an Order requiring the Landlord to provide the Tenant with access to the rental unit; for authority to assign or sublet the rental unit; and to recover the fee for filing this Application for Dispute Resolution.

Issue(s) to be Decided

Should the Ten Day Notice to End Tenancy for Unpaid Rent, served pursuant to section 46 of the *Residential Tenancy Act (Act)*, be set aside?

Is there a need for an Order requiring the Landlord to provide the Tenant with access to the rental unit?

Should the Tenant be granted authority to sublet the rental unit?

Background and Evidence

The teleconference hearing was scheduled for 9:30 a.m. on this date. The Landlord dialled into the teleconference at 9:29 a.m. on this date and I dialled into the teleconference at 9:30 a.m. on this date. By the time the teleconference was terminated at 9:45 a.m., the Tenant had not appeared.

I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord and I were the only parties who had called into this teleconference.

The Landlord stated that the Tenants were served with a Ten Day Notice to End Tenancy on August 27, 2018, which is the subject of this dispute. She stated that the Landlord did not submit a copy of that Notice to End Tenancy as evidence for these proceedings. She was advised that I do not have a copy of that Notice to End Tenancy, as neither party submitted a copy of it.

The Landlord asked if she could submit a copy of the Notice to End Tenancy at this point in the proceedings. She was advised that she could not submit that document now that the hearing has commenced, as her evidence needed to be submitted to the Residential Tenancy Branch and served to the Tenant at least one week prior to the start of the proceedings.

Analysis

I find that the Tenant failed to diligently pursue the application and I therefore dismiss the application without leave to reapply, including the application to set aside a Ten Day Notice to End Tenancy for Unpaid Rent.

Section 55(1) of the *Act* stipulates that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I am unable to grant the Landlord an Order of Possession pursuant to section 55(1) of the *Act* as I do not have a copy of the Ten Day Notice to End Tenancy for Unpaid Rent and I cannot, therefore, conclude that it complies with section 52 of the *Act*.

The Landlord retains the right to file another Application for Dispute Resolution seeking an Order of Possession for the rental unit.

Conclusion

As the Tenant did not attend the hearing in support of his Application for Dispute Resolution, the Application was dismissed 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 16, 2018

Residential Tenancy Branch