



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDCT, MNRT

Introduction

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice") pursuant to section 46;
- a monetary order for damage or compensation under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement pursuant to section 67; and
- a monetary order for the cost of emergency repairs to the rental unit pursuant to section 33.

Tenant DH attended the hearing and confirmed he authority to speak on behalf of tenant ES, who was not present. The landlord's agent (the "landlord") attended the hearing and confirmed he was an agent of the landlord's company named in this application, and had authority to speak on its behalf. Each party was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

At the outset of the hearing, the landlord confirmed that he had received the tenants' evidence and testified that he did not provide any evidence of his own. As the landlord did not raise any issues regarding service of the application or the evidence, I find that the landlord was duly served with these documents in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an order of possession?

Are the tenants entitled to a monetary order for damage or compensation under the *Act*, *Regulation* or tenancy agreement?

Are the tenants entitled to a monetary order for the cost of emergency repairs?

Background and Evidence

As per the testimony of the parties, the tenancy began on July 1, 2018 on a month-to-month basis. Rent in the amount of \$1,100.00 is payable on the last day of each month. The tenants remitted a security and pet deposit at the start of the tenancy, which the landlord still retains in trust. The tenants continue to reside in the rental unit.

On November 30, 2018 the landlord served a 10 Day Notice, which the tenant confirms, he received on November 30, 2018. The landlord testified that he has not received any rent since the 10 Day Notice.

The tenant testified that they are withholding rent pending payment for repairs related to mold which were authorized by the landlord. The tenant seeks compensation in the amount of \$1,300.00 for the repairs. The landlord denied authorization of repairs or the withholding of rent.

Analysis

Section 52 of the *Act* establishes that in order to be effective, a notice to end tenancy must be in writing and must be signed and dated by the landlord giving the notice. Based on the notice before me, which remains unsigned by the landlord, I find the tenants were not served with an effective notice. Due to the ineffective notice, I find the landlord is not entitled to an order of possession and the tenancy continues until it is ended in accordance with the *Act*.

In regards to the tenants' monetary claims, I find the tenants have provided insufficient evidence to establish their claims. For this reason, I dismiss these portions of the tenants' claim without leave to reapply.

Conclusion

The tenants' application to cancel the 10 Day Notice is upheld.

The tenants' application for a monetary order for damage or compensation is dismissed without leave to reapply.

The tenants' application for a monetary order for the cost of emergency repairs is 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: November 30, 2018

Residential Tenancy Branch