



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, LRE, FFT

Introduction

This hearing was scheduled in response to the tenant's 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;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The tenant did not participate in the conference call hearing, which lasted approximately 10 minutes. The landlord's agent (the "landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed she was an agent of the landlord's company named in this application, and had authority to speak on its behalf.

Because the tenant failed to attend the hearing and present his claim, I dismiss the tenant's claim without leave to reapply.

Section 55 of the *Act* establishes that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end tenancy, an order of possession must be granted to the landlord if, the notice to end tenancy complies in form and content and the tenant's application is dismissed.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

As per the submitted tenancy agreement and testimony of the landlord, the tenancy began on April 1, 2018 on a fixed term until March 31, 2019. Rent in the amount of \$1,150.00 is payable on the first of each month. The tenant remitted a security deposit

in the amount of \$575.00 at the start of the tenancy, which the landlord still retains in trust. The tenant continues to reside in the rental unit.

The landlord testified that the tenant was served with the 10 Day Notice on November 13, 2018 by way of posting. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the 10 Day Notice on November 16, 2018, three days after it was posted.

Analysis

Section 52 of the *Act* provides that a notice to end tenancy from a landlord must be in writing and must be signed and dated by the landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

In the absence of a submitted copy of the 10 Day Notice I find I cannot definitively conclude the 10 Day Notice complies with section 52. Although I dismiss the tenant's application, I make no finding on the issuance of the order of possession as I find the landlord has not met the burden of proof in establishing entitlement to any such order.

Conclusion

The tenant's entire application is dismissed without leave to reapply.

An order of possession is not granted to the landlord.

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: December 27, 2018

Residential Tenancy Branch