



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, DRI, ERP, LRE, MNDCT, OLC, RP

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on October 22, 2018 (the "Application"). The Tenant applied as follows:

- To dispute a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice");
- To dispute a rent increase that is above the amount allowed by law;
- For an order that the Landlord make emergency repairs;
- To suspend or set conditions on the Landlord's right to enter the rental unit;
- For an order that the Landlord comply with the Act, regulation and/or the tenancy agreement;
- For an order that the Landlord make repairs; and
- For compensation for monetary loss or other money owed.

The Landlord appeared at the hearing with K.N. to assist and G.A. to translate. The Tenant did not appear at the hearing.

The Landlord provided his correct name and spelling and the Application was amended to reflect this. This is also reflected in the style of cause.

The Landlord confirmed the Tenant is still living at the rental unit. The Landlord sought an Order of Possession for the rental unit.

I waited 10 minutes to allow the Tenant to participate in this hearing. The Tenant did not call into the hearing. I proceeded with the hearing in the absence of the Tenant.

Neither party had submitted evidence prior to the hearing. I allowed the Landlord to submit a copy of the Notice by 4:00 p.m. on November 30, 2018 and the Landlord did so. I have considered the Notice in this decision.

I explained the hearing process to the parties who did not have questions when asked. The parties provided affirmed testimony. The parties were given an opportunity to present relevant oral evidence, make relevant submissions and ask relevant questions.

Issue to be Decided

1. Should the Landlord be issued an Order of Possession based on the Notice pursuant to section 55 of the *Act*?

Background and Evidence

The Landlord testified as follows through K.N. There is a verbal tenancy agreement between the Landlord and Tenant in relation to the rental unit. The tenancy started two years ago and is a month-to-month tenancy. Rent is \$575.00 per month due on the first day of each month.

The Notice states the Tenant failed to pay \$1,150.00 in rent that was due October 1, 2018. It is addressed to the Tenant and relates to the rental unit. It is signed and dated October 15, 2018 by the Landlord. It has an effective date of October 25, 2018.

The Landlord testified as follows through K.N. The Landlord posted both pages of the Notice on the door of the rental unit on October 15, 2018. G.A. testified that he observed the Tenant take the Notice off the door of the rental unit.

The Landlord, through K.N., confirmed that the Tenant failed to pay rent for September and October and therefore owed \$1,150.00 in rent by October 1, 2018. The Landlord, through K.N., testified that the Tenant did not pay any of the outstanding rent after the Notice was issued. The Landlord, through K.N., testified that the Tenant had no authority under the *Residential Tenancy Act* (the "*Act*") to withhold rent.

Analysis

Rule 7.3 of the Rules of Procedure states that an arbitrator can dismiss an application for dispute resolution without leave to re-apply if a party fails to attend the hearing. Here, the Tenant failed to attend the hearing and provide evidence regarding her claims, including her dispute of the Notice. In the absence of evidence from the Tenant regarding the basis for her claims and the dispute of the Notice, the Application is dismissed without leave to re-apply.

Section 55 of the *Act* requires an arbitrator to issue an Order of Possession if a tenant applies to dispute a notice to end tenancy, the application is dismissed and the notice complies with section 52 of the *Act*.

Section 52 of the *Act* outlines the form and content required for a notice to end tenancy issued under the *Act*.

I have reviewed the Notice and find it complies with section 52 of the *Act* in form and content.

I have dismissed the Tenant's Application and found the Notice complies with section 52 of the *Act*. Therefore, pursuant to section 55 of the *Act*, I issue the Landlord an Order of Possession for the rental unit.

I also note that I accept the undisputed testimony of the Landlord that the Tenant had no authority to withhold rent and never paid the outstanding rent after the Notice was issued. Therefore, I find sections 46(3) and 46(4)(a) of the *Act* do not apply.

I grant the Landlord an Order of Possession effective two days after service on the Tenant as the effective date of the Notice has passed.

Conclusion

The Application is dismissed without leave to re-apply.

The Landlord is granted an Order of Possession pursuant to section 55 of the *Act*. The Order is effective two days after service on the Tenant. The Order must be served on the Tenant. If the Tenant does not comply with the Order, it may be filed in the Supreme Court and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: December 03, 2018

Residential Tenancy Branch