



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SINGULA HOMES 2005
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, DRI, ERP, LRE, MNDCT, RR

Introduction

On December 7, 2018 the Tenant submitted an Application for Dispute Resolution (the “Application”), seeking relief pursuant to the *Residential Tenancy Act* (the “Act”) for the following:

- an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities; dated December 2, 2018 (the “10 Day Notice”);
- dispute a rent increase;
- an order for emergency repairs;
- an order to suspend or restricts the Landlords right to enter;
- a monetary order for damage or compensation to the Tenant; and
- an order to reduce rent for repairs, services, facilities agreed upon but not provided.

I note that Section 55 of the *Act* requires that when a tenant submits an Application seeking to cancel a Notice to End Tenancy issued by a landlord, I must consider if the landlord is entitled to an Order of Possession if the Application is dismissed and the landlord has issued a Notice to End Tenancy that is compliant with section 52 of the *Act*.

The hearing was scheduled for 9:30am on January 7, 2019 as a teleconference hearing. Only the Landlords appeared at the hearing. No one called in for the Tenant. The conference call line remained open and was monitored for 11 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Respondent and I were the only persons who had called into this teleconference.

Rule 10.1 of the Rules of Procedure provides as follows:

“The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.”

Accordingly, in the absence of any evidence or submissions from the applicant I order the hearing continue in absence of the applicant.

The Landlord was given the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities; dated December 2, 2018 (the “10 Day Notice”) pursuant to Section 46 of the *Act*;
2. if the Tenant is not successful in cancelling the 10 Day Notice, is the Landlord entitled to an Order of Possession, pursuant to Section 55 of the *Act*?
3. dispute a rent increase pursuant to Section 41 of the *Act*;
4. an order for emergency repairs pursuant to Section 62 of the *Act*;
5. an order to suspend or restricts the Landlords right to enter pursuant to Section 70 of the *Act*;
6. a monetary order for damage or compensation to the Tenant pursuant to Section 67 of the *Act*; and
7. an order to reduce rent for repairs, services, facilities agreed upon but not provided pursuant to Section 65 of the *Act*.

Background and Evidence

Landlord B.S. testified that the tenancy began on October 1, 2018. Rent in the amount of \$1,600.00 is due to be paid to the Landlord by the first day of each month. B.S. confirms that a security deposit in the amount of \$800.00 was paid to the Landlord.

Landlord B.S. testified that he served the Tenant the 10 Day Notice dated December 2, 2018, in person to the Tenant on December 2, 2018. The Notice was for unpaid rent in the amount of \$1,600.00 for the month of December 2018. The Notice informed the

Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenant had five days to dispute the Notice.

Analysis

I find that the 10 Day Notice dated December 2, 2018 was sufficiently served onto the Tenant in accordance with the *Act*.

Under section 55 of the *Act*, when a Tenant's Application to cancel a Notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 52 regarding form and content, I must grant the Landlord an order of possession.

In this case, the Landlord did not sign the 10 Day Notice dated December 2, 2018, which is a requirement according to section 52 of the *Act*. Section 68 of the *Act* allows me to amend the 10 Day Notice if I am satisfied that the person receiving the notice knew, or should have known, the information that was omitted from the notice, and in the circumstances, it is reasonable to amend the notice.

I find that the 10 Day Notice contained all other requirements set out by section 52 of the *Act*. Given that this was the Tenant's Application to cancel the 10 Day Notice, I am confident that the Tenant was aware of the Notice, the reasons for it, as well as who it was from. As a result I amend the 10 Day Notice to comply with section 52 of the *Act* pursuant to section 68 of the *Act*.

Rule 10.1 of the Rules of Procedure provides as follows:

"The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply."

As the Tenant did not appear at the hearing of their Application, I therefore dismiss the Tenant's Application in its entirety without leave to reapply. As I have amended the 10 Day Notice to comply with section 52 of the *Act*, I find that the Landlord is entitled to an

order of possession effective 2 (two) days, after service on the Tenant, pursuant to section 55 of the Act. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Conclusion

The Tenants Application is dismissed without leave to reapply. The Landlord is granted an order of possession.

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: January 07, 2019

Residential Tenancy Branch