



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, DRI, LRE, PSF, RR, FFT

Introduction

This teleconference hearing was scheduled in response to an application by the Tenant under the *Residential Tenancy Act* (the “*Act*”) to cancel a 10 Day Notice to End Tenancy for Unpaid Rent (the “10 Day Notice”), to dispute a rent increase, to suspend or restrict the Landlord’s right to enter, for services or facilities to be provided as required by the tenancy agreement or *Act*, for a reduction in rent due to repairs, services and/or facilities agreed upon but not provided, and for the recovery of the filing fee paid for the Application for Dispute Resolution.

The Tenant and the Landlord were both present for the teleconference hearing and were affirmed to be truthful in their testimony.

Issues to be Decided

Should the 10 Day Notice to End Tenancy for Unpaid Rent be cancelled?

If the 10 Day Notice to End Tenancy for Unpaid Rent is upheld, is the Landlord entitled to an Order of Possession?

Was the Tenant issued an illegal rent increase that should be cancelled?

Should the Landlord’s right to enter the rental unit be suspended or restricted?

Should the Landlord be ordered to provide services or facilities as required by the tenancy agreement or the *Act*?

Is the Tenant entitled to a reduction in rent due to repairs, services or facilities agreed upon but not provided?

Should the Tenant be awarded the recovery of the filing fee paid for the Application for Dispute Resolution?

Background and Evidence

The Tenant provided testimony that she moved out of the rental unit on December 29, 2018. The Landlord confirmed that the Tenant moved out and that possession of the rental unit was returned to the Landlord.

The Tenant's claims on the Application for Dispute Resolution were reviewed and the Tenant confirmed that the claims were no longer relevant given that the tenancy had ended.

Analysis

As the parties were in agreement that the Tenant moved out and that possession of the rental unit had been returned to the Landlord, I find that the Tenant's claims are no longer in dispute. Therefore, I make no findings on the Tenant's claims and instead I dismiss the Tenant's application in its entirety, without leave to reapply. As no findings were made on the merits of the claims, I decline to award the recovery of the filing fee.

As stated in Section 55(1) of the *Act*, when a tenant's application to cancel a notice to end tenancy is dismissed, the landlord must be granted an Order of Possession. However, I accept the Landlord's testimony that they have possession of the rental unit back and therefore find that it is not necessary to issue an Order of Possession to the Landlord.

The Landlord noted that she was seeking monetary compensation as stated in her evidence. However, it was confirmed with the parties that only the claims on the Tenant's application would be considered as an application had not been filed by the Landlord. Both parties are at liberty to file a new application should there be any outstanding claims from this tenancy.

Conclusion

This tenancy has ended. The Tenant's Application for Dispute Resolution 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: February 07, 2019

Residential Tenancy Branch