



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes CNR MNDC FF

Introduction

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

- cancellation of a 10 Day Notice to End Tenancy for unpaid rent (the 10 Day Notice), pursuant to section 46;
- a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to recover the filing fee for this application pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

Issues

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

Is the tenant entitled to compensation for loss?

Is the tenant entitled to recover the filing fee?

Background and Evidence

The tenancy began on February 1, 2018 with a monthly rent of \$1200.00 payable on the 1st day of each month.

The 10 Day Notice subject to this dispute is dated February 5, 2019. The 10 Day Notice was issued on the grounds that the tenant failed to pay \$1200.00 rent that was due August 1, 2018.

At the outset of the hearing the landlord advised that the issue relating to the 10 Day Notice had been resolved as he has since received proof of payment of the August 2018 rent. The landlord issued the 10 Day Notice as the tenant was not providing him with proof of the payment. The landlord testified that he tenant only provided proof after filing this application. The landlord submits the application could have been avoided.

The tenant is seeking reimbursement of the filing fee. The tenant claims it was the landlord's own mix up causing him to believe rent was still outstanding from six months prior. The tenant is also seeking \$10.00 for reimbursement of an NSF charge collected from him by the landlord. The tenant submits the NSF charge was a result of an error by the landlord's bank.

The landlord acknowledged that his bank has reimbursed him for the NSF charge so he is willing to reimburse the tenant.

Analysis

The only issue in dispute is the filing fee.

This application could have been avoided had the tenant provided proof of payment to the landlord when requested. However, the landlord must also take some responsibility in keeping track of payments collected from the tenant. In this case the landlord issued a 10 Day Notice for rent payable 6 months prior which turns out was received by him.

Accordingly, I award the tenant the filing fee for this application in the amount of \$100.00.

The tenant is also awarded \$10.00 for the NSF charge as agreed to by the landlord.

The tenant may reduce a future rent payment in the amount of \$110.00.

Conclusion

I allow the tenant's application to cancel the landlord's 10 Day Notice dated February 5, 2019, which is hereby cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the *Act*.

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: March 25, 2019

Residential Tenancy Branch