



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ASCENT REAL ESTATE MANAGEMENT CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR OLC

Introduction

This hearing dealt with 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; and an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62.

MC represented the landlord in this hearing. Both parties were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The landlord confirmed receipt of the tenant's application for dispute resolution ('application'). In accordance with section 89 of the *Act*, I find that the landlord duly served with the tenant's application. As both parties confirmed receipt of each other's evidentiary materials, I find that these documents were duly served in accordance with section 88 of the *Act*.

The tenant confirmed receipt of the 10 Day Notice dated September 26, 2019. I find the tenant served with the 10 Day Notice in accordance with section 88 of the *Act*.

Issues to be Decided

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 an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement?

Background and Evidence

This month-to-month tenancy originally began on May 1, 2016, with monthly rent set at \$950.00. A security deposit was collected in the amount of \$470.00, which the landlord states was returned to the tenant. Both parties entered into a new month-to-month agreement beginning February 15, 2018, with monthly rent set at \$850.00, payable on the first of the month. A security deposit was due in the amount of \$425.00, which the landlord states the tenant has yet to pay.

The landlord issued the tenant a 10 Day Notice for Unpaid Rent on September 26, 2019 for failing to pay the \$425.00 security deposit as well as a \$25.00 NSF fee that was applied for the January 2019 rent payment.

The landlord confirmed in the hearing that the tenant has paid all outstanding rent for this tenancy at the time of the hearing, but owes the above amounts.

Analysis

Section 46(1) of the *Act* allows a landlord to end a tenancy "if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice".

It was undisputed by both parties that the tenant does not owe any outstanding rent for this tenancy. Accordingly, I allow the tenant's application to cancel the 10 Day Notice for Unpaid Rent dated September 26, 2019. The tenancy will continue until ended in accordance with the *Act* and tenancy agreement.

The tenant also applied for an order for the landlord to comply with the *Act*. I have considered the tenant's submissions and testimony, and I am not satisfied that an Order is required. Accordingly, this portion of the tenant's application is dismissed.

Conclusion

I allow the tenant's application to cancel the 10 Day Notice issued by the landlord. The 10 Day Notice dated September 26, 2019 is of no force or effect. This tenancy continues until ended in accordance with the *Act*.

The tenant's application for an order for the landlord to comply with the *Act* is dismissed with 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: November 4, 2019

Residential Tenancy Branch