



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OLC, RP

Introduction

On March 17, 2020, the Tenants applied for a Dispute Resolution proceeding seeking to cancel a 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”) pursuant to Section 46 of the *Residential Tenancy Act* (the “Act”), seeking an Order to comply pursuant to Section 62 of the *Act*, and seeking a repair Order pursuant to Section 32 of the *Act*.

The Tenant attended the hearing; however, the Landlord did not make an appearance during the 17-minute conference call. The Tenant provided a solemn affirmation.

The Tenant advised that he served the Landlord with the Notice of Hearing and evidence package by registered mail on March 25, 2020 (the registered mail tracking number is on the first page of this decision). Based on this undisputed evidence, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was deemed to have received the Notice of Hearing and evidence package five days after it was mailed.

During the hearing, I advised the Tenant that as per Rule 2.3 of the Rules of Procedure, claims made in an Application must be related to each other and that I have the discretion to sever and dismiss unrelated claims. As such, I advised the Tenant that this hearing would primarily address the Landlord’s 10 Day Notice to End Tenancy for Unpaid Rent, that his other claims would be dismissed, and that he is at liberty to apply for these claims under a new and separate Application.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution 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 complies with the *Act*.

Issue(s) to be Decided

- Are the Tenants entitled to have the Notice cancelled?
- If the Tenants are unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Tenant stated that the tenancy started on May 30, 2019, that rent is currently established at \$1,600.00 per month, and that it is due on the first day of each month. A security deposit of \$800.00 was also paid. A signed copy of the tenancy agreement was submitted as documentary evidence.

He advised that the Landlord served the Notice by posting it on his door on March 14, 2020 and he received it the next day. The Notice indicated that \$600.00 was due on March 1, 2020, but it did not note the effective end date of the tenancy.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

The onus is on the party issuing the Notice to substantiate the reasons for service of the Notice. As the Landlord has not appeared at the hearing, I am not satisfied that the Landlord has properly substantiated the grounds for ending the tenancy. As such, I am

not satisfied of the validity of the Notice, and I find that the Notice of March 14, 2020 is of no force and effect.

Conclusion

Based on the above, I hereby order that the 10 Day Notice to End Tenancy for Unpaid Rent of March 14, 2020 to be cancelled and of no force or effect.

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: April 24, 2020

Residential Tenancy Branch