



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, LRE, OLC, FFT

Introduction

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

- Cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the Notice), pursuant to section 46;
- An order requiring the landlord to comply with the Act, regulations, and/or tenancy agreement, pursuant to section 62;
- An order to restrict or suspend the landlord's right of entry, pursuant to section; and
- Recover the filing fee for this application from the landlord, pursuant to section 72.

The respondent (landlord) called into this teleconference at the date and time set for the hearing of this matter. The applicant (tenant) did not, although I waited until 1:45 P.M. to enable him to connect with this teleconference hearing scheduled for 1:30 P.M.

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.

The landlord confirmed she received the Notice of Hearing from the tenant. The landlord is not sure when nor how she received the Notice of Hearing, but she thinks it was in the end of March 2020. The landlord did not receive any evidence from the tenant and did not submit any evidence. I find the landlord was served the Notice of Hearing in accordance with section 71(2)(c) of the Act.

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 is compliant with the Act.

Preliminary Issue – Tenant's application dismissed

Rules 7.1 and 7.3 of the Rules of Procedure provide as follows:

Rule 7 – During the hearing

7.1 Commencement of the dispute resolution hearing

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

Accordingly, in the absence of any attendance at this hearing by the applicant I order the application dismissed without leave to reapply.

Issue to be Decided

Is the landlord entitled to an Order of Possession based on the One Month Notice?

Background and Evidence

While I have turned my mind to the testimony of the attending party, not all details of the submission and arguments are reproduced here.

The landlord affirmed she took possession and ownership of the rental unit in March 2019 and the tenant was already living at the rental unit at the time. Monthly rent is \$1,950.00, due on the 07th day of the month. The landlord did not collect security or pet damage deposit. There is not a written tenancy agreement. The tenant continues to reside at the rental unit.

The landlord affirmed the tenant did not pay rent for February and March 2020. On March 12, 2020 the landlord served the Notice in person. April's rent was not paid and the balance of the tenant was \$5,850.00 for February, March and April's rent. On April 29, 2020 the tenant paid \$1,500.00.

The landlord affirmed the tenant may continue the tenancy if the arrears are paid. The landlord did not request an order of possession.

Analysis

Based on the undisputed landlord's testimony, I find the tenant was served the Notice on March 12, 2020, in accordance with section 88 (a) of the Act. I find that the tenant's application was submitted before the five-day deadline to dispute the Notice, in accordance with Section 46(4)(b) of the Act.

As a copy of the Notice was not provided, I can not confirm if the Notice is in accordance with section 52 of the Act. Therefore, I can not issue an Order of Possession. Furthermore, the landlord did not affirm she wishes to obtain an Order of Possession.

As the tenant was not successful, the tenant must bear the cost of the filing fee.

Conclusion

I dismiss the tenant's application 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: May 19, 2020

Residential Tenancy Branch