



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OLC, FFT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") to cancel a 10 Day Notice to End Tenancy for Unpaid Rent dated September 3, 2020 ("10 Day Notice"), and for an order directing the landlord to comply with the Act, regulation or tenancy agreement, and to recover the \$100.00 cost of his Application filing fee.

The Tenant, the Landlord, and counsel for the Landlord, D.C. ("Counsel"), appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing, the Tenant and the Landlord were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Neither Party raised any concerns regarding the service of the Application for Dispute Resolution or the documentary evidence. The Landlord said he had received the Application, Notice of Hearing, and the Tenant's documentary evidence and had reviewed it prior to the hearing. Further, the Landlord did not submit any documentary evidence for consideration.

Preliminary and Procedural Matters

The Parties provided their email addresses at the outset of the hearing and confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

I advised the Parties that pursuant to Rule 7.4, I would only consider their written or documentary evidence to which they pointed or directed me in the hearing.

Before the Parties testified, I explained that Rule 2.3 authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance, the Tenant indicated different matters of dispute on the application, the most urgent of which is the application to set aside a 10 Day Notice. I find that not all the claims on the Application are sufficiently related to be determined during this proceeding. I advised that I would, therefore, only consider the Tenant's request to set aside the 10 Day Notice and the recovery of the filing fee at this proceeding. The Tenant's other claim is dismissed, with leave to re-apply, depending on the outcome of this hearing.

Section 55 of the Act states that if a tenant's application to cancel a notice to end tenancy is dismissed, and I am satisfied that the notice to end tenancy complies with the requirements under section 52, I must grant the landlord an order of possession.

Issue(s) to be Decided

- Should the 10 Day Notice be cancelled or confirmed?
- Is the Landlord entitled to an order of possession?
- Is the Tenant entitled to recover the \$100.00 cost of his Application filing fee?

Background and Evidence

The Parties agreed that the periodic tenancy began on February 1, 2011, with a monthly rent of \$2,951.00, due on the first day of each month. The Parties agreed that the Tenant paid the Landlord a security deposit of \$1,300.00, and no pet damage deposit.

During the hearing, the Landlord agreed to withdraw the 10 Day Notice, and he said he did not want an Order of Possession of the rental unit from the RTB. However, the Parties agreed to certain terms for payment of rent moving forward.

The Tenant agreed to pay his November rent on the 28th and 29th of October, so that the Landlord would have the funds by the first of November 2020. Further, the Landlord agreed that the Tenant could pay him rent via 12 months of post-dated cheques. The Tenant agreed to go to his bank and get 12 or more cheques, so that he could send the Landlord 12 post-dated cheques, starting with one for December 1, 2020.

The Landlord said if the Tenant moves during the next 12 months that the Landlord will return the unused, post-dated cheques to the Tenant or destroy them, depending on the Tenant's preference in this regard.

The Landlord requested that the Tenant try to keep the yard tidier for the benefit of the

neighbours' property value. The Tenant acknowledged that the basketball net stand had been in the front yard, but he said it is no longer there. As for the vehicles in the driveway, the Tenant said that he uses those for work, therefore, they are not "extra, unnecessary" vehicles, contrary to the neighbours' complaints.

Summary

As we had resolved the Parties' matters during the hearing, the Landlord has withdrawn the 10 Day Notice, as he no longer needs an Order of Possession. Since the Parties each conceded points and worked together for the end result, I award the Tenant with recovery of half the \$100.00 filing fee or **\$50.00**. I authorize the Tenant to deduct \$50.00 from one future rent payment in full satisfaction of this award.

Conclusion

While this is not an official Settlement Agreement, the Parties both made concessions to allow the tenancy to continue. The Landlord withdraws the 10 Day Notice, saying that he does not need an Order of Possession for the rental unit. I, therefore, cancel the 10 Day Notice and find it void and unenforceable.

The Tenant agrees to pay the Landlord his November 2020 rent by online transfer on October 28th and 29th, so that the full amount is deposited in the Landlord's account by November 1, 2020. The Tenant agrees to obtain 12 cheques from the bank in November, so that he can send the Landlord 12 post-dated cheques starting with December 1, 2020. The Tenant agrees to send these to the Landlord at the Landlord's address in the Application, so that the Landlord has the cheques by December 1, 2020.

I find that the tenancy will continue until 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: October 26, 2020

Residential Tenancy Branch