



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, RP

Introduction

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

- cancellation of the landlords' 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46; and
- an order to the landlord to make repairs to the rental unit pursuant to section 33.

Both parties attended the hearing and 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.

Issues(s) to be Decided

Should the 10 Day Notice to End tenancy be cancelled? If not, should the landlord be granted an order of possession?

Should the landlord be compelled to conduct repairs in the suite?

Background and Evidence

Both parties agree to the following. The tenancy began on June 1, 2019 with the rent payable of \$850.00 due on the first of each month. The tenant testified that she has been financially impacted as a result of COVID – 19.

The landlord testified that the tenant did not pay the rent for August 2020 and issued a notice on September 9, 2020 for unpaid rent. The landlord testified as long as she pays on the repayment plan, he will work with her.

Analysis

Both parties advised that they were unsure as to what the current situation of unpaid rent means for landlords and tenants. I spent the majority of the hearing explaining the new COVID – 19 regulations to the parties to assist them, specifically as follows;

PART 2 – RESIDENTIAL TENANCY ACT

Division 1 – Landlord’s Notice: Non-Payment of Rent

Non-payment of affected rent

3 (1) As an exception to sections 44 (1) (a) (ii) and 46 [landlord’s notice: non-payment of rent] of the Residential Tenancy Act and any other provision of the Residential Tenancy Act and the Residential Tenancy Regulation, a landlord must not give a tenant notice to end a tenancy under section 46 (1) of the Residential Tenancy Act in respect of affected rent that is unpaid and instead this Division applies.

(2) The landlord must give the tenant a repayment plan if

(a) the tenant has overdue affected rent, and

(b) subject to subsection (3), the landlord and tenant did not enter into a prior agreement.

(3) If the landlord and tenant entered into a prior agreement and the prior agreement does not address the full amount of overdue affected rent, the landlord must give the tenant a repayment plan in respect of the amount of overdue affected rent that is not addressed in the prior agreement.

(4) The landlord may cancel a prior agreement by giving the tenant a repayment plan for the full amount of the overdue affected rent.

(5) The tenant may cancel a prior agreement by giving the landlord a repayment plan for the full amount of the overdue affected rent whether or not the landlord has given the tenant a repayment plan under subsection (3).

The landlord did not have a repayment plan agreement in place, nor has he issued one at the time of this hearing. Based on the above, I hereby cancel the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, it is of no effect or force. I explained the process to both parties of the repayment plan including their rights, responsibilities and obligations. Both parties indicated they understood the process going forward.

As the tenant remained silent on the repairs portion of her claim and did not provide sufficient supporting documentation, I hereby dismiss that portion of her application without leave to reapply.

Conclusion

The 10 Day Notice to End Tenancy for Unpaid Rent or Utilities is cancelled; it is of no effect or force. The tenancy continues. The tenants claim for repairs is dismissed 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: November 03, 2020

Residential Tenancy Branch