



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

TT: CNR

LL: FFL, OPRM-DR, OPR-DR-PP

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “*Act*”).

The Tenant’s Application for Dispute Resolution was made on November 6, 2020 (the “Tenant’s Application”). The Tenant applied for the following relief, pursuant to the *Act*:

- to cancel a 10 Day Notice for Unpaid rent dated September 2, 2020 (the “10 Day Notice”).

The Landlord’s Application for Dispute Resolution was made on October 27, 2020, (the “Landlord’s Application”). The Landlord initially applied through the Direct Request process; however, since the Tenant had already filed to dispute the 10 Day Notice to End Tenancy, the Landlord’s Application was scheduled to be heard with the Tenant’s Application. The Landlord applied for the following relief, pursuant to the *Act*:

- an order of possession for unpaid rent;
- a monetary order for unpaid rent; and
- an order granting recovery of the filing fee.

The hearing was scheduled for 11:00 AM on January 28, 2021 as a teleconference hearing. The Landlord’s Agents appeared on behalf of the Landlord at the appointed date and time. No one appeared for the Tenant. The conference call line remained open and was monitored for 12 minutes before the call ended. 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 Landlord’s Agents and I were the only persons who had called into this teleconference.

The Landlord's Agents testified that they served the Application package and documentary evidence to the Tenant by registered mail on November 18, 2020. The Landlord submitted a copy of the registered mail receipt in support. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received 5 days later. I find the above documents were sufficiently served to the Tenant for the purposes of the *Act*.

The Landlord's Agents were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. 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 is compliant with the *Act*.

Preliminary Matters

At the start of the hearing, the Landlord's Agents stated that they wished to withdraw their monetary claims for unpaid rent. The Landlord's Agents stated that the Tenant abandoned the rental unit sometime around December 14, 2020, however, the Landlord is seeking an order of possession to officially end the tenancy. The hearing proceeded to determine if the Landlord is entitled to an order of possession as well the filing fee.

Issue(s) to be Decided

1. Is the Landlord entitled to an order of possession for unpaid rent, pursuant to Section 55 of the *Act*?
2. Is the Landlord entitled to recover the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The Landlord's Agents testified that the tenancy began on April 15, 2019. Rent in the amount of \$1,175.00 is due to be paid to the Landlord by the first day of each month. The Tenant paid a security deposit in the amount of \$587.50 which the Landlord continues to hold.

The Landlord's Agents testified that they served the Tenant the 10 Day Notice dated December 2, 2020 to the Tenant on December 2, 2020 by posting it to the Tenant's door. The Notice was for unpaid rent in the amount of \$1,612.50. The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenant had five days to dispute the Notice.

Analysis

I find that the 10 Day Notice dated December 2, 2020 was sufficiently served onto the Tenant in accordance with the *Act*.

Under section 55 of the *Act*, when 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 regarding form and content, I must grant the Landlord an order of possession.

Rule 10.1 of the Rules of Procedure provides as follows:

"The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply."

As the Tenant did not appear at the hearing of their Application, I therefore dismiss the Tenant's Application in its entirety without leave to reapply. I find the 10 Day Notice to comply with section 52 of the *Act*, I find that the Landlord is entitled to an order of possession effective 2 (two) days, after service on the Tenant, pursuant to section 55 of the *Act*. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

As the Landlord was successful with their Application, I find that they are entitled to recover the **\$100.00** filing fee paid to make the Application, which the Landlord may deduct from the Tenant's security deposit.

Conclusion

The Tenant's Application is dismissed without leave to reapply. The Landlord is granted an order of possession effective 2 Days upon service to the Tenant.

The Landlord is permitted to retain \$100.00 for the Tenant's security deposit.

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: January 28, 2021

Residential Tenancy Branch