



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, FFL

Introduction

On October 30, 2020 the landlord submitted an Application for Dispute Resolution (the “Application”) requesting an Order of Possession of the rental unit. They also applied for reimbursement of the Application filing fee.

This participatory hearing was convened after the issuance of a November 23, 2020 Interim Decision of an Adjudicator. The Adjudicator determined that the landlord’s Application could not be considered by way of the Residential Tenancy Branch’s direct request proceedings, as had been originally requested by the landlord. The Adjudicator reconvened the landlord’s Application to a participatory hearing as they were not satisfied with the completion of the tenancy agreement, or the evidence showing service of the end-of-tenancy notice.

The matter proceeded by way of a hearing pursuant to section 74(2) of the *Residential Tenancy Act* (the “Act”) on February 8, 2021. The agent for the landlord attended the telephone conference call hearing; the tenant did not attend.

To proceed with this hearing, I must be satisfied that the landlord made reasonable attempts to serve the tenants with the notice of this hearing. This means the landlord must provide proof that the document has been served in a verified manner allowed under section 89 of the *Act* and I must accept that evidence. The landlord in attendance stated they conveyed the notice of this hearing, as well as their prepared evidence, to the tenant “toward the end of November”. This was delivery to the tenant in-person at the rental unit address where the tenant continues to reside.

With no statements to the contrary from the tenant, or evidence to show otherwise, I am satisfied the landlord duly served the tenant as required in preparation for this hearing.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession of the rental unit, pursuant to section 55 of the *Act*?

Is the landlord entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

The agent for the landlord in attendance confirmed the issuance of the 10-Day Notice on October 2, 2020. They stated that the tenant remains in the unit to the present day. At the outset of the hearing they withdrew this 10-Day Notice. This was because of the tenant's efforts to repay rent amounts owing from November onwards.

With the tenant not in attendance, I find there is no objection or concern from them regarding the landlord's decision. Therefore, I find this issue resolved by the landlord's own proposal.

The landlord raised issues and ongoing concerns with the tenant's conduct in the building. They maintain the tenant's actions violate terms of the tenancy agreement and local bylaws which the municipality will continue to investigate. The actions described in the landlord's summary here raise valid concerns for them; however, this issue cannot be resolved in this hearing. The landlord is free to apply for another dispute resolution on different grounds to resolve these issues.

Because the landlord attended to advise of their current intentions, I award reimbursement of the Application filing to them by way of monetary order.

Conclusion

For the reasons above, I order that the 10-Day Notice issued by the landlord on October 2, 2020 is cancelled and the tenancy remains in full force and effect.

Pursuant to sections 72 of the *Act*, I grant the landlord a Monetary Order in the amount of \$100.00, for recovery of the filing fee for this hearing application. The landlord is provided with this Order in the above terms and the tenant must be served with **this Order** as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: February 8, 2021

Residential Tenancy Branch